"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;".

(2) Section 601(b) is amended (A) by striking out "and" after "1973," and (B) by inserting after "1974" the following ", and $41,400,000 for the fiscal year ending June 30, 1975".

(3) Section 601(c) is amended (A) by striking out "and" after "1973," and (B) by inserting after "1974" the following: ", and $50,000,000 for the fiscal year ending June 30, 1975".

(b)(1) Section 621(a) is amended by striking out "through June 30, 1974" in paragraphs (1) and (2) and inserting in lieu thereof "through June 30, 1975".

(2) Section 625(2) is amended by striking out "for each of the fiscal years ending June 30, 1973, and June 30, 1974" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975".

REGIONAL MEDICAL PROGRAMS

SEC. 104. Section 901(a) is amended (1) by striking out "and" after "1973," and (2) by inserting after "1984" the following: ", and $159,000,000 for the fiscal year ending June 30, 1975".

TITLE II—MISCELLANEOUS

MISCELLANEOUS

SEC. 201. Section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 is amended by striking out "1974" and inserting in lieu thereof "1975".

H.R. 17234

By Mr. BROWN of California:

Page 7, after line 19, insert the following new section:

LIMITATION ON ASSISTANCE FOR SOUTH VIETNAM

SEC. 8. The total amount of military, economic, or other assistance, of sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and of sales of agricultural commodities (whether for cash, credit, or by other means) under any law for South Vietnam shall not exceed $1,190,000,000 in fiscal year 1975. Section 614 of the Foreign Assistance Act of 1961 or any other provision of law may not be used to waive the provisions of this section.

Renumber sections 8 through 34 as sections 9 through 35, respectively.

H.R. 17234

By Mr. BROWN of California:

Page 34, after line 15, insert the following new section:

LIMITATION ON ASSISTANCE FOR FOOD, AGRICULTURAL COMMODITIES, AND FERTILIZERS

SEC. 30. (a)(1) The total amount of assistance for food and of sales of agricultural commodities (whether for cash, credit, or any other means) under any law in fiscal year 1975 shall not exceed $250,000,000. (2) The total amount of assistance for agricultural fertilizers under any law in fiscal year 1975 shall not exceed $90,000,000.

(b) The limitations of clauses (1) and (2) of subsection (a) shall not apply if—

(1) the recipient of the food assistance, agricultural commodity, or the agricultural fertilizer is a country which has been designated by the United Nations as a country "Most Seriously Affected" by the present food crisis; or

(2) the President certifies to the Congress that funds are to be obligated or expended or a sale is to be made to provide the food assistance, agricultural commodity, or agricultural fertilizers solely for humanitarian purposes.

(c) Section 614 of the Foreign Assistance Act of 1961 or any other provision of law may not be used to waive the provisions of this section.

SENATE—*Tuesday, December 10, 1974*

The Senate met at 9:45 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

The Reverend Robert O. Sypolt, pastor, Brookhaven United Methodist Charge, Morgantown, W. Va., offered the following prayer:

Let us pray.

We praise Thee, our Father, for the opportunities of this new day, for this sacred and hallowed moment, for each of these Thy servants, their coworkers, and their homes.

We thank Thee for the holy season of Advent and the remembrance afresh of our Lord's birth. Grant each by Thy Holy Spirit wisdom, patience, guidance, understanding, faith, hope, and love.

Be with those who faithfully have served this Government in the past; be with those who now serve; and be with those who will serve in the future.

And now in the words of Martin Luther, we pray

"Be near me, Lord Jesus,
I ask Thee to stay
Close by me forever,
And love me, I pray:
Bless all the dear children
In Thy tender care,
Prepare us for Heaven,
To live with Thee there."

We ask it in the name of Him who came as the Bethlehem Babe. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 10, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HUGHES thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 9, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that authorization is not being given to all committees to meet now. Any committee which feels it is absolutely necessary to meet should attempt to get special consent.

Mr. HUGH SCOTT. Mr. President, the decision not to have an automatic provision that the committees may meet is part of our conservation of energy program.

We are anxious to preserve the energies of our colleagues from the ordinarily arduous duties of committee attendance and the risk of cerebration in order that they may be spared, upon notice, to attend the sessions, to expedite the proceedings, to hasten the inevitable end of all bodies, so that we may have a subsequent resurrection come January, and hopefully with good portents attending, although that is, as we all know, a debatable matter.

Nevertheless, I am glad that some energy is to be saved in this body. I hope the principle will be borne in mind elsewhere.

ORDER OF BUSINESS

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

A CALL TO THE HEAD OF NIH TO LEAD THE NATION IN MAKING BIOMEDICAL RESEARCH FINDINGS MORE AVAILABLE TO THE PEOPLE AND THEIR PHYSICIANS

Mr. METZENBAUM. Mr. President, I wish to address myself today to some of the problems involved with making better use of our superb biomedical research facilities, in the interest of improving our national health care standards.

Americans can take pride in the fact that our country is now and has long been the world leader in biomedical research. Our National Institutes of Health, for example, are universally admired for the extraordinary scope and quality of their work and for the highly trained, skilled, and creative scientists who conduct this research. Our universities and medical schools not only train new doctors, but on an unprecedented scale, work actively to advance knowledge. In 8 out of the last 10 years, one or more Americans have been awarded the Nobel Prize in physiology and medicine.

This is a brilliant record, but when we look at the general health of the Nation, the record is not nearly so impressive. The

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

fact is that despite our advanced knowledge, we lag behind many other nations in such areas as infantile mortality, general mortality and life expectancy.

There are, of course, many factors which contribute to our relatively poor performance in health care delivery, among them high health care costs, uneven distribution of readily available medical services, and our often unhealthy style of life. Further, a serious gap exists between what is known by our research scientists and what is actually used by our practicing physicians. It is to this gap that I address my remarks.

It is ironic that in a time in which we have made such great advances in communications technology, we are still unable to devise an effective means to help keep our medical personnel abreast of the latest developments in medical research. Bridging this gap would not, of course, solve all of our health care problems. But until we can assure that new information is properly disseminated, we shall remain wasteful of our most vital resource—human knowledge.

I cannot imagine that anyone would argue with the notion that new, proven medical knowledge should be used or that every medical practitioner should have the most up-to-date techniques at his or her disposal. The need is obvious, but before considering some of the intricate problems which are, in fact, involved, let us consider the ways in which doctors currently receive new information.

CURRENT SOURCES OF INFORMATION

A medical practitioner may acquaint himself or herself with recent developments by attending professional meetings, conversing with colleagues, reading professional journals and examining materials circulated by the major drug companies about new medications.

In addition, more sophisticated information resources are available to doctors confronted with especially complex and difficult problems. A doctor may, for example, consult a nearby research center, should one exist, or consult with specialists. He or she may also acquire bibliographic references from the computer based medical literature analysis and retrieval system, a service of the National Library of Medicine to which the regional biomedical libraries have direct dial access. The Department of Commerce catalogs Government-sponsored research through the National Technical Information Service and the M. D. Anderson Clinic, a private organization, operates a computerized dial-access system which provides recorded descriptions of symptoms, diagnostic tests and possible treatments for various kinds of cancer.

Other such information systems exist, as do courses and special programs offered to enable physicians to fulfill the continuing education requirements of State and specialty medical associations.

PROBLEMS WITH THE STATUS QUO

Even with these worthy, if scattered efforts, there are many problems.

First of all, the amount of information involved is staggering. According to one estimate, the volume of biomedical information doubles every 8 years. That means that a 50-year-old physician who completed medical school at the age of 26 will have witnessed an 800-percent increase in the store of medical knowledge since attaining his or her degree. The process never stops, treatment programs are continually improved, and so the challenge to practicing physicians is continual.

Second, as we are all aware, physicians are extremely busy. On the average, a doctor works substantially in excess of 50 hours per week. What with office hours, hospital rounds, consultation with other doctors, little time and energy remain for continuing study. And despite the fact that information can be found, it is available only to those who actively seek it.

Certainly, many doctors do set aside time for their own continuing education and professional development. They are to be commended. We, in America, have a right to be proud of our physicians. They give much of themselves over and beyond the call of duty. And oftentimes without compensation. But I strongly suspect that a great many physicians are simply unable to find enough hours in the day.

A rural doctor may, for example, lack reasonably easy access to the latest research results and an exceedingly busy physician in an urban or suburban area may simply be unable to free sufficient time from a demanding schedule.

As a result, we sometimes hear of unfortunate incidents. In one case, a patient with Hodgkins Disease was treated with radiation therapy, thereby foregoing the newer and probably more effective multiple chemotherapy treatment. Lung cancer has sometimes been misdiagnosed as tuberculosis. Kidneys and other organs have been removed unnecessarily because newer and less drastic measures were not tried first.

No definite statistics on the frequency of such incidents exist, but many doctors agree that these things can and do happen. They also agree that such incidents are oftentimes the result of inadequate knowledge of newer methods of diagnosis and treatment on the part of practicing physicians.

Further, as Dr. Diane Fink, Director of the Cancer Control Division of the National Cancer Institute has pointed out:

> The physician involved in community practice is often the first line of defense for cancer patients.

According to Dr. Fink:

> Most cancer patients have the best chance for extended survival if initially treated by a team of physicians with the multi-disciplinary experience and resources necessary to apply all forms of effective therapy in the very beginning.

It is my observation that many patients do not receive this kind of treatment. Too many doctors seem to want to prove that they know all the answers. They resent calling in a specialist for consultation, and too often the trusting patient pays the price.

Studies conducted by the Cancer Control Division have revealed a great many "horror stories" in this regard. To take just one set of examples, Dr. John R. Durant, Director of the National Cancer Institute-sponsored Cancer Research and Training Center at the University of Alabama, tells of a doctor who, by administering excessive radiation, destroyed a patient's lung, and of another physician who "watched" a woman's breast cancer until it spread uncontrollably to other parts of the body.

Such cases may be rare, or they may be fairly common, but as long as even one incident of this kind occurs, we are not doing the job that we need to do in getting information out to the people who must use it.

As I see it, there are currently three major weaknesses in the methods we use to disseminate proven research results to practitioners.

First, we leave information acquisition to the initiative of individual doctors.

Second, most of our research institutions make information available upon request, but do not actively disseminate it.

Finally, little effort has gone into identifying the kind of information actually needed, the individuals who can best make use of it and the impact of actually providing more information. This latter is clearly the case with the few continuing education programs required by either State laws or speciality organizations. In these programs, the only thing measured is the amount of time put in. There is no measure of the quantity or quality of learning or of whether or not what is learned is effectively applied in day-to-day practice.

Clearly, there is a great need for a systematic program through which we shall be able to identify the point at which research information becomes applicable to practice. Furthermore, such a system should identify the individuals who require certain kinds of information, and should include effective methods of disseminating this information. The system should also include followup procedures designed to test the effectiveness of improved dissemination.

MANDATORY RELICENSURE

Although some promising new ways of getting information to doctors are currently in the demonstration stage, some of which I shall elaborate upon later, it is important to note that these and any other efforts can be of only limited effectiveness until there is some way to insure that the information will, in fact, be used.

One way of accomplishing this might well be through a mandatory periodic relicensing requirement for medical practitioners. The organized medical profession has resisted this idea, offering continuing education programs instead. But I submit that without relicensing, people must entrust their lives to persons who may or may not be as competent and up to date in the profession as the public has the right to expect.

Senator EDWARD KENNEDY has initiated efforts to require relicensing; efforts which I strongly support. Not relicensing that would expect the practitioner out for 30 years to face an impossible examination, but a program phased in so that those now graduating would know in advance of their obligation to be reexamined periodically throughout their career. Some members of the medical profession have maintained that relicensing re-

quirements would be demeaning and would reflect negatively upon the profession's high standing.

At first glance, this objection might appear to be a very legitimate one, but upon reflection, it seems to me that the reputation of the medical profession would be enhanced, not diminished, by a relicensing requirement. It is worthy of note that airline pilots, to whom thousands of people entrust their lives daily, must be retested every 6 months, and retrained if necessary. The public does not feel that airline pilots are not proficient because of this regulation. Rather, all of us who fly as passengers are comforted to know that pilots must keep up with new technology and new equipment.

Relicensing is, in other words, a fact of life in the airline business—something which pilots take for granted and with which they comply without fuss or bruised feelings. I see no reason why the same could not hold true in the medical profession—and maybe some of the other professions, including my own. It seems to me that just as a pilot without the proper training should not be allowed to fly a 747, a physician who has not kept up with advances in the field should not be allowed by the public and, even more, by professional peers, to practice medicine.

ROLE OF NIH DIRECTOR

Meanwhile, we must still face the problem of getting up-to-date information off the library shelves and into the hands of practitioners, to spread it from the minds of the few to the minds of the many.

In my opinion, Dr. Robert S. Stone, Director of the National Institutes of Health, is the one person in the United States today who is in a position to equalize the imbalance between research results that are produced and research results that are not being used to improve the Nation's health. I have personally communicated to Dr. Stone my views that he should exercise his leadership in this regard. My message to him is clear, as indicated by the following excerpt from a recent letter to him:

The seeds for more prompt dissemination already exist in all of the Institutes, and most particularly at the National Cancer Institute and the National Heart and Lung Institute; but these beginning efforts will need support if they are ever to germinate. As overall Director of all of the National Institutes of Health, you are the one who can—and should—bring together these various creative efforts into one, coordinated campaign to get research results to practicing physicians. The Institutes that are lagging behind in this effort can be brought forward into an action program; and the synergistic effect of cross-fertilizing the best from each can only be done by you. In this respect, you have an unparalleled opportunity to serve the people of this Nation.

Only a coordinated and planned program will produce the kind of results I am talking about. But the hours and days roll by—and nothing happens—and more Americans die and suffer, when it need not be. We have the potential to scale great heights—and it is already in hand. But the bureaucracy moves slowly and laboriously. I think again of Robert Kennedy, of beloved memory, saying, in the words of George Bernard Shaw:

Some men see things as they are and say "why"; I dream things that never were and say "why not".

I went on in my letter to Dr. Stone and set forth some of the kinds of efforts NIH could undertake to improve dissemination practices. I did so with the understanding that no single suggestion will fill the gap. But each could and would help to fill the present vacuum. I suggest that:

INSTITUTE NEWSLETTER

First. At the very least, each member Institute of the National Institutes of Health should issue a regular newsletter describing, if only briefly, any new techniques and treatments which have been developed. This might make doctors aware of new developments, thereby permitting them to write to obtain a more complete paper on the subject. But at least they would know that there is something new in the field.

ADVANCED COMMUNICATIONS TECHNOLOGY

Second. The Lister Hill National Center for Biomedical Communications within the National Library of Medicine of NIH has been working extensively to develop practical applications of advanced communications technology—using, for example, closed-circuit, satellite and 2-way interactive cable television. Why not use these now, in pilot tests, to reach doctors who are otherwise cut off from information sources?

For example, each year there are numerous medical conferences and conventions. Although they may afford valuable opportunities to receive and discuss new medical information, conferences are costly and time-consuming to attend. There is some indication, in fact, that it is a relatively small percentage of doctors who attend most of the meetings.

It seems to me that a simple survey could identify those doctors whose personal schedules and professional commitments prevent them from attending meetings which would be helpful to them in their practice. Then, why not bring the meeting to them? If it is currently possible to bring a prize fight from Zaire, Africa—via closed circuit television—into a theater in St. Louis, why cannot the same be done to bring a medical convention to Keene, N.H., or Helena, Mont., or any other place where doctors could gather more conveniently in local groups? The new technology could actually allow those at a distance to participate in discussions of important medical issues. This could be of great use to doctors practicing in rural areas, to general practitioners too busy to take a week off to attend a seminar or conference in some far-distant city, and to thousands of others who for one reason or another, never have attended a medical conference or seminar.

The technical knowledge to do this—and more—already exists. The Lister Hill Center has already developed projects, in related fields, of far more advanced technology than that which I have described. Among other things, current programs include trial use of a NASA satellite for voice and data communications between Alaskan Health Service Unit Hospitals and village health aides, as a means of improving health care services in remote regions of Alaska; use of microwave television technology to extend the resources of a New England university medical center to health professionals isolated from major medical resources; and trial implementation of a network for interinstitutional sharing of computer-assisted instructional materials.

Dr. Martin Cummings, Director of the National Library of Medicine, has urged that health professionals receive more extensive training in applying computer technology in the interest of more effective health care. As Dr. Cummings states:

Computer technology represents a powerful tool with enormous implications for health research, care and education. Creative and dedicated health professionals are needed to provide leadership in adapting the computer technology fully to the health field. Training programs of high quality are also needed to give them these new skills in appropriate settings. Our experience with a few training grants for health professions indicates that there is a growing need for these new skills. It has been demonstrated that such trainees are in demand and utilize computer technologies most productively.

MEDICAL SCHOOLS AND TRAINING INSTITUTIONS

Third. A respected and reliable health official recently called to my attention the need to focus on the initial training given to medical students, interns and residents. He points out that they do not always have the benefit of the most up-to-date information or teaching techniques. It is obvious that this situation cannot be tolerated.

In addition to making sure that the best educational methods are being used and that the most current medical information is being imparted, it is absolutely essential to teach doctors, from the very beginning of their training, that it is appropriate to seek help from their peers and colleagues. Although I have been arguing that all doctors should be tested for proficiency in new methods and should be aware of new advances in medical science, I fully understand that no one person can master all of the information available. What is essential is that physicians know that when they have reached the limits of their personal expertise, they should seek help from specialists. Our medical schools, universities, and teaching hospitals need to do more to foster the idea that knowing what one doesn't know is as important as knowing what one knows.

INNOVATIONS IN CONTINUING EDUCATION

Fourth. It seems to me that new doctors, fortified with the best education available, could put to better use the resource that they represent. For example, students who receive scholarship assistance from the Federal Government to attend medical school are required, in turn, to give 2 years of service to communities short of doctors. Why not also use these doctors as personnel for an expansion of the "circuit riding" demonstration projects sponsored by groups such as the Cancer Control Division of

the National Cancer Institute? This program brings top medical specialists to both the doctors and the people in needy areas. The specialists meet with local doctors, discuss new medical techniques, and help them diagnose and treat patients. Thus, the scholarship doctors would fulfill their service commitment, local doctors would gain the most up-to-date medical information, and the residents of doctor-short communities would receive better treatment—everybody would benefit.

We should also give further attention to a program initiated by the University of Washington which involves a method for providing primary training and continuing education for doctors and simultaneously identifying information gaps in a broad service area.

The program, called WAMI, which stands for Washington, Alaska, Montana and Idaho, was initially designed to provide premedical education for students in Alaska, Montana and Idaho, all of which lack medical schools. Students from these States take the first year of medical school at their respective State universities. They then attend the University of Washington for the second year, in which more specific medical study begins.

Their next training comes on-the-job, either in their own home towns or towns like them, where they work in hospitals under the supervision of local practicing physicians. Each of these physicians becomes an adjunct member of the university faculty, insuring access to and receipt of any up-dated information they might need as they supervise these students. Since this program arose out of a need to provide efficient and effective medical training and services to a badly under-served area in the northwest, it does not possess the definitive character which a mandatory reeducation for all practicing physicians would. But in practice, it has turned out to promote the same objectives. Again, everyone benefits: beginning and experienced physicians alike receive the most up-to-date information, and the residents of remote communities are better served because of it.

Although both of these examples might be limited to use in rural and remote areas, I do not see any reason not to pursue them and to try to adopt them to other environments. There is no single solution to these problems, but such promising programs deserve further effort and attention from the Director of NIH.

EDUCATING THE PUBLIC

Fifth, I have spoken of the need to teach doctors that it is appropriate to ask for new information and help, when necessary, and of the need to convince medical students that medical education is a lifelong proposition. The public also needs to be educated. Recently, advertising campaigns pertaining to cervical cancer, breast cancer, and hypertension informed the public that it is important to request tests for these ailments from their physicians on a regular basis and that is all to the good. But it is also essential that the public be encouraged to ask questions of their doctors, to ask to have new techniques available and explained to them, and to feel free to ask their doctors to consult with other physicians. Such inquiries would not reflect negatively on the medical profession. To the contrary, evidence shows that doctors respond with better care and attention with this "support" from their patients. It can only serve to enhance their position in the eyes of the public.

NEW ROLE FOR DOCTORS WITH NIH

Sixth. If we are, on the one hand, encouraging greater participation by the public in caring for their health, we should also be encouraging doctors to speak their needs. It goes without saying that the information needs of doctors vary according to their geographic location, their medical specialty, and the types of ailments commonly encountered by the population they serve. And yet that is just the problem—these needs, apparently, "go without saying." Doctors need some way to express to NIH the kinds of information they need. To the average doctor, the NIH is just some monolithic bureau in Washington. His knowledge of it is only that which he reads in the public press. He has no direct contact with NIH; but it would be good if he did.

It is NIH that should provide the mechanism for this communication. Communication is, after all, a two-way process. In addition to a flow of information out from NIH to doctors, we also need a system for feeding information from doctors to NIH. NIH would benefit by using doctors to pinpoint the prevailing gaps in information essential to medical practitioners. And the doctors would benefit, in turn, by asserting themselves as part of the clientele NIH should be serving.

The suggestions I have made thus far could all be implemented immediately had we the will to do so. We have the knowledge and we have the technology; all we need is the will and the leadership.

But even if we put these kinds of programs into effect, we shall still need to stretch our imagination to find new, more effective ways to provide the American people with the best and the most "modern" of modern medical treatments. I look forward to the day, hopefully in the not to far distant future, when we might use computer technology to aid in diagnosis and even to help prescribe treatment for individuals. This is not too farfetched an idea. It is an idea which is within the realm of possibility, one which may someday help to save and to prolong countless lives. Beyond even this, we must eventually arrive at communications solution that today we cannot even imagine. That is, after all, the example set by research itself. We will never get there if we do not stretch our imaginations today.

At the moment, I await any indication that the National Institutes of Health have given to priority to these goals. Although individual institutes are contributing in small ways to solving such problems, we need a deliberate, comprehensive effort to identify what must, in fact, be done to disseminate medical information in an optimum manner. We need the NIH to do it. As I mentioned earlier, in my opinion, Dr. Robert Stone, Director of NIH, is the one person who could, and should take on this problem directly. With the help of others in HEW, Dr. Stone could coordinate the efforts of the National Institutes of Health with other parts of HEW such as the Health Resources Administration, the arm of HEW concerned with health care delivery.

I am encouraged that my colleagues who serve on the Labor-HEW Appropriations Subcommittee share these concerns. Their report on the fiscal year 1975 Labor-HEW appropriations bill requires Dr. Stone to develop and report a dissemination plan by April 1 of next year.

As I stated in my letter to Dr. Stone, and as I mentioned here when I began my presentation today, this Nation which leads the world in biomedical research, cannot afford to waste that valuable, lifegiving and saving resource. We cannot let this vital knowledge slip through the cracks in our communications systems. In a world in which resources of all kinds are becoming increasingly scarce, it is a crime against all people if we do not use these most rare and precious resources to their fullest effectiveness.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there any time remaining under the Senator's order?

The ACTING PRESIDENT pro tempore. The Senator from Ohio has 2½ minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that time be allotted to the Senator from Oklahoma (Mr. BARTLETT) under his order.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum be charged against Mr. BARTLETT.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 10 minutes.

OPEC PRICES AND DOMESTIC ENERGY SUPPLY

Mr. BARTLETT. Mr. President, the U.S. economy cannot endure much longer the huge out-flow of funds caused by our imports of crude oil from the OPEC nations.

It is time we take strong and forceful action to maximize not only our conservation effort but also our supply effort. We must demonstrate to the OPEC nations our intention to solve our energy problems. This is the only message they

will understand and this is the only way to break the cartel to force a reduction in world crude price.

We must act immediately. But urging only conservation is a big mistake. It must be coupled with an all-out effort to increase our domestic supplies.

Actions, like the delay in approval to construct the Alaskan pipeline so the largest oil field ever discovered in the United States could be produced, continually proposing roll backs in the price of crude oil, and failure to deregulate the price of new natural gas, send a very clear picture to the OPEC nations—we are not yet disturbed by the exorbitant price we are paying for imported oil. What impetus does OPEC have to decrease price if the biggest energy consumer in the world is not committed to an all-out effort itself?

The American people must be advised that the magnitude of the import reduction, which will ultimately be required, cannot be accomplished by conservation measures alone. It will occur only with a significant increase in supply. Without this all Americans will have to face a slower economy, widespread unemployment, and ultimately a lower standard of living.

An all-out effort on the supply side is essential. A free market price for all domestically produced crude oil, deregualtion of natural gas, a tremendously increased rate of leasing on the Outer Continential Shelf, and a tailoring of environmental restrictions to make them consistent with our energy goals are all critical to the effort to force the OPEC price of crude oil down. Though a reduction in the price of imported crude oil probably will not happen right away, if the all-out effort is made, it eventually will have to happen.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there was no order for morning business. I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 10:15 a.m., with statements therein limited to 3 minutes each.

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

Is there morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE HOUSE

On December 9, 1974, during the adjournment of the Senate and under authority of the order of December 9, 1974, a message from the House of Representatives stated that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

ENROLLED BILL SIGNED

The message also stated that the Speaker has signed the enrolled bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

The ACTING PRESIDENT pro tempore (Mr. METCALF) subsequently signed the enrolled bill.

At 9:48 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following Senate bills, without amendment:

S. 2363. An act to amend chapter 39 of title 28, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces; and

S. 3906. An act to amend title 10, United States Code, by repealing the requirement that only certain officers with aeronautical ratings may command flying units of the Air Force.

At 12:35 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the bill (S. 2193) to provide for increased participation by the United States in the Asian Development Bank.

The message also announced that the House has passed the bill (S. 4040) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further 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 Senate to the bill (H.R. 11929) to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

The message also announced that the House has passed the bill (H.R. 17045) to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States, in which it requests the concurrence of the Senate.

At 4:45 p.m., a message from the House of Representatives, by Mr. Hackney announced that the House insists upon its amendments to the bill (S. 1296) to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. HALEY, Mr. TAYLOR of North Carolina, Mr. UDALL, Mr. FOLEY, Mr. MEEDS, Mr. SKUBITZ, Mr. STEIGER of Arizona, Mr. SEBELIUS, and Mr. REGULA were appointed managers of the conference on the part of the House.

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 Senate to the bill (H.R. 14214) to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health services, and for other purposes.

The message further announced that the House has passed the bill (H.R. 7077) to provide for the establishment of the Cuyahoga Valley National Recreation Area, in which it requests the concurrence of the Senate.

The message also announced that the Speaker has appointed Mr. SHOUP as a manager on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15223) to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes, vice Mr. KUYKENDALL, resigned.

At 5:57 p.m., a message from the House of Representatives by Mr. BERRY announced that the House agrees to the amendments of the Senate to the bill (H.R. 10337) to authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 14214) to amend the Public Health Service Act and related laws. to revise and extend programs of health revenue sharing and health services, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE DEPARTMENT OF AGRICULTURE

A letter from the Director, Agricultural Economics, of the Department of Agriculture transmitting, pursuant to law, a report concerning the current crisis in rural transportation (with an accompanying report). Referred to the Committee on Appropriations.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the President of Amtrak transmitting, pursuant to law, a report of the National Railroad Passenger Corporation covering operations and capital acquisitions for the fiscal years 1975 and 1976 and the transition period of July–September 1976 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF THE NATIONAL HIGHWAY TRAFFIC ADMINISTRATION

A letter from the Administrator of the National Highway Traffic Safety Administration reporting, pursuant to law, on the status of the annual reports under the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966. Referred to the Committee on Public Works and the Committee on Commerce.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States transmitting pursuant to law, a report entitled "Federal Programs for Education of the Handicapped: Issues and Problems"; and a report entitled "Public Involvement in Planning Public Works Projects Should Be Increased" (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Secretary of the Interior in the nature of a report, pursuant to law, on donations received and allocations made from the fund "14X8563 Funds Contributed for Advance of Indian Race, Bureau of Indian Affairs." Referred to the Committee on Interior and Insular Affairs.

PROGRAMS FOR PUBLIC LIBRARY CONSTRUCTION

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a copy of a document submitted to the Federal Register entitled "Programs for Public Library Construction:" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting, pursuant to law, a report concerning the Sea Grant program (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman of the National Labor Relations Board transmitting, pursuant to law, the annual report of the Board for the fiscal year 1974 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE STUDENT LOAN MARKETING ASSOCIATION

A letter from the Chairman of the Student Loan Marketing Association transmitting, pursuant to law, the report of the Association for the fiscal year ending December 31, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ON MOTOR VEHICLE EMISSIONS

A letter from the President of the National Academy of Sciences transmitting, pursuant to law, a report entitled "Motor Vehicle Emissions" (with an accompanying report). Referred to the Committee in Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HUGHES):

A resolution adopted by the City Council of the City of Casselberry, Fla., opposing proposals to exempt from Federal income taxes any interest income earned on bonds issued by nongovernmental, private, investor-owned utilities. Referred to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Government Operations, with amendments:

S. 3013. A bill to revise and restate certain functions and duties of the Comptroller General of the United States, and for other purposes (Rept. No. 93-1314).

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

S. 2807. A bill to name the Federal building, United States post office, United States courthouse, in Brunswick, Georgia, as the "Frank M. Scarlett Federal Building." (Rept. No. 93-1315).

S. 4006. A bill to designate the Paul H. Douglas Federal Building (Rept. No. 93-1316).

By Mr. RANDOLPH, from the Committee on Public Works, with amendments:

S.J. Res. 212. A joint resolution to authorize the erection of a Children's Gift Bell memorial tower on the Capitol Grounds, and for other purposes (Rept. No. 93-1317).

By Mr. METCALF, from the Committee on Government Operations, with amendments:

S. 704. A bill to restore the independence of certain regulatory agencies of the Federal Government (Rept. No. 93-1319).

By Mr. ERVIN, from the Committee on Government Operations, with an amendment:

S. 4004. A bill to amend the Federal Home Loan Bank Act to provide for the continued duration of the Federal Savings and Loan Advisory Council (Rept. No. 93-1320).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

Frank G. Zarb, of New York, to be Administrator of the Federal Energy Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. WILLIAMS. Mr. President, as in executive session, I report favorably from the Committee on Labor and Public Welfare sundry nominations in the Public Health Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD at the end of the Senate proceedings of July 29, 1974.)

THE IMPACT OF CRIME ON SMALL BUSINESS—PART VI—REPORT OF A COMMITTEE (REPT. NO. 93-1318)

Mr. BIBLE. Mr. President, from the Select Committee on Small Business, I submit a report entitled "Criminal Redistribution (Fencing) of Goods Stolen from Legitimate Business Activities and Its Effect on Commerce." I ask unanimous consent that the report be printed.

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

Mr. BIBLE. This report is the culmination of 2 years of committee work, beginning in 1972. Late in that year, our committee decided that the importance of the criminal receiver in the total picture of crime must be examined. We had already completed several years of examination of crime and its effects on small business. We had already looked into the problem of cargo theft, emphasizing the need for much tighter Government supervision of transport to cut the needless losses sustained by our small businessmen. But, we concluded that the committee needed to undertake a thorough examination of that part of the Nation's criminal structure who received stolen property for resale: the fence.

What we found opened our eyes to the enormity of the problem facing us. We are swamped by theft, now estimated at reaching $20 billion a year by a new Commerce Department study whereby a large portion is funneled through the Nation's criminal redistribution system. The fence is truly a national disgrace.

I hope this document will provide the basis for a continuing study of the fence and an impetus for major legislation to curb his activities. Without the fence, thieves would have a restricted market to profit from their activities. Without the fence, the Small Business Committee found many crimes would not take place. Fences often order specific goods at will. Operating under the guise of legitimate businesses, they are able to order all kinds of goods to fill the wants of their illicit customers. As the figures show, the fencing establishment is a multimillion dollar enterprise.

In this report, we get a glimpse of the huge task before our law enforcement agencies. Because our law enforcement agencies do not generally understand the fence, they are unable to combat his influence.

This report shows that Federal, State, and local law enforcement authorities will have to look more closely at the fence. They will need help.

In its conclusions, Mr. President, the select committee made several recommendations on the type of help that would be needed. First, we need a national survey of criminal justice system practices and policies relating to the criminal receiver.

We need a crime control program that will give priority to research designed to contribute to knowledge of how the fence operates, to be followed by actual projects to put the fence out of business.

We need to end the overlapping and confusing responsibilities of the Federal agencies on the transmission of stolen goods, together with a uniform property indentification system and a public education program.

And, we need serious consideration to the adoption of treble damages provisions regarding the activities of the criminal receiver, such as S. 2994, the legislation that I introduced, which has passed the Senate twice.

All this help, Mr. President, will have to come from Congress and the executive branch if we are to combat the pervasive influence of the fence.

The concern that we all have for the preservation of small business and the law-abiding citizen will lead us to the goals. I hope this report will stand as a

light to those who would work to end the role of the criminal in legitimate business. The time has come to put a stop to theft. Putting the fence out of business is the best way to do it.

HOUSE BILLS REFERRED

The bill (H.R. 17045) to amend the Social Securiy Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States was read twice by its title and referred to the Committee on Finance.

The bill (H.R. 7077) to provide for the establishment of the Cuyahoga Valley National Recreation Area was read twice by its title and referred to the Committee on Interior and Insular Affairs.

FOREIGN ASSISTANCE ACT OF 1974, S. 3394

Mr. HUMPHREY. Mr. President, I ask unanimous consent that S. 3394 be printed as passed.

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 9, 1974, he presented to the President of the United States the enrolled bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes; and on December 10, 1974, he presented to the President of the United States the enrolled bill (S. 1353) to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HARTKE:

S. 4220. A bill to amend the Public Health Service Act to provide for a study with regard to histoplasmosis. Referred to the Committee on Labor and Public Welfare.

By Mr. CURTIS:

S. 4221. A bill to amend the Fair Labor Standards Act of 1938 to exempt employees engaged in livestock brand inspections from the overtime compensation provisions of that Act. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE:

S. 4220. A bill to amend the Public Health Service Act to provide for a study with regard to histoplasmosis. Referred to the Committee on Labor and Public Welfare.

Mr. HARTKE. Mr. President, I am introducing legislation to study and research histoplasmosis and ocular histoplasmosis, diseases that affect many individuals in various regions of our country.

Some experts believe 2 out of every 3 people in Indiana and other parts of the United States may be carriers of histoplasmosis.

Histoplasmosis is caused by a fungus or mold existing in simple plant life form called Histoplasma Capsulatum. Certain conditions must exist for the fungus to live. These are commonly warm, moist, and preferably dark. These conditions are found most often in droppings from chickens, pigeons, starlings, and other birds. In many cases, the fungus is prevalent around old chicken houses, barns, belfries, and pigeon lofts.

Histoplasmosis is endemic, and characteristically found in the Mississippi, Ohio, Missouri, and other river valleys in the United States. It has also been found in Latin America, North and South Africa, the East Indies, and Australia.

Many people who come in contact with histopores are infected. However, in most cases, contact with the fungus and the mold will not manifest any organic symptoms.

Schoolchildren of both sexes are frequent victims. More men than women get the disease as adults. Very young children and older men are the most susceptible to the generalized form of histoplasmosis that spreads from the lungs to other parts of the body.

When the fungus-bearing dust is breathed in, the tiny spores are carried into the bronchial tubes. Eventually, some of the spores reach deep down into the tiny sacs of the lungs. Here the spores are arrested by wandering cells and are taken to the lungs' lymph nodes. These filter-like nodes trap and hold the spores, and provide an excellent place for them to multiply.

Occasionally these areas become inflamed. There is often severe localized damage to the lymp nodes and lung cells. Scars and calcium deposits form. Usually the symptoms are those of a flu and after a week of rest, a person recovers. A large dose of the fungus may bring more serious symptoms: loss of weight, extreme tiredness, and weeks or months of convalescence.

Another more serious type of histoplasmosis occurs when the spores spread from the lungs throughout the body. This condition may cause various organs to enlarge, fever to rise, or it may cause anemia.

In chronic, long-lasting cases of histoplasmosis, injured areas may be found in the lungs and at times in the throat and nasal passages. These cases occasionally can be fatal.

Ocular histoplasmosis occurs when the fungus or one of its products escapes from the lungs or other organs and lodges in the eye causing inflammation behind the retina.

When the fungus lodges near or in the mascula of the eye the condition becomes serious, often resulting in blindness.

Dr. Ted Schlaegel, professor of ophthalmology, director of Uveitis Service at Indiana University School of Medicine, noted that in the endemic area one out of every thousand people will suffer ocular disability from ocular histoplasmosis.

Histoplasmosis was originally treated as tuberculosis. With the introduction of the histoplasmin skin test in 1941 the disease was separated from other generalities. However, it was not until the late 1950's that ocular histoplasmosis was discovered.

Mr. President, research into a disease which affects two out of every three people in Indiana and other States that have a high incidence of histoplasmosis should move along without hesitation. However, moneys are not available through existing programs for establishment of the necessary laboratories to carry out the research.

My bill provides $4.75 million over the next 3 years for research into histoplasmosis, and $4.75 million for research into ocular histoplasmosis. Additionally, my bill provides $500,000 for training of qualified individuals.

When so little is known about a disease that causes so much harm and suffering, I believe the modest amounts that are included in the bill should be swiftly approved.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 4220

A bill to amend the Public Health Service Act to provide for a study with regard to histoplasmosis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part A of title III of the Public Health Service Act is amended by adding at the end thereof the following new section:

"HISTOPLASMOSIS RESEARCH

"SEC. 310. (a) The Secretary shall conduct a research program with regard to the diagnosis and treatment of histoplasmosis and ocular histoplasmosis. Such study shall include clinical and animal research.

"(b) From the funds appropriated to carry out this subsection, the Secretary is authorized to make grants to assist in initiating, developing, and maintaining programs for the training of personnel in the diagnosis and treatment of histoplasmosis and ocular histoplasmosis.

"(c)(1) There are authorized to be appropriated to carry out the research program with regard to histoplasmosis, $1,000,000 for the fiscal year ending June 30, 1975, $1,500,000 for the fiscal year ending June 30, 1976, and $2,250,000 for the fiscal year ending June 30, 1977.

"(2) There are authorized to be appropriated to carry out the research program with regard to ocular histoplasmosis, $1,000,000 for the fiscal year ending June 30, 1975, $1,500,000 for the fiscal year ending June 30, 1976, and $2,250,000 for the fiscal year ending June 30, 1977.

"(3) For the purposes of conducting training programs under subsection (b) there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975 and a like sum for each of the next 2 succeeding fiscal years.".

By Mr. CURTIS:

S. 4221. A bill to amend the Fair Labor Standards Act of 1938 to exempt employees engaged in livestock brand inspections from the overtime compensation provisions of that act. Referred to the Committe on Labor and Public Welfare.

Mr. CURTIS. Mr. President, I am introducing legislation today to amend the Fair Labor Standards Act of 1938 to exempt employees engaged in livestock brand inspection from the overtime compensation provisions of that act. I am introducing this legislation at the request of several constituents and ask unanimous consent that a joint letter from Mr. Allen J. Beerman, secretary of state of Nebraska, and Art Thomsen, secretary and chief inspector of the Nebraska Brand Commission, and a letter from Mr. Calvin L. Coulter, who is chairman of the American National Cattlemen's Association's Committee on Brand and Theft and also a member of the Nebraska Brand Committee, be inserted at this point in the RECORD.

Mr. President, I believe these two letters adequately outline the need for this legislation. While I realize that it is probably too late in this Congress to take action, I hope that the chairman of the Committee on Labor and Public Welfare will place this subject on the committee agenda early next year.

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

DEPARTMENT OF STATE,
Alliance, Nebr., November 13, 1974.

Re Fair Labor Standards Act.
Hon. CARL T. CURTIS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CURTIS: At this time we wish to bring to your attention, problems currently evolving within our department of State Government, as a direct result of the overall incompatibility The Fair Labor Standards Act has with The Nebraska Brand Committee. We also wish to emphasize the importance of gaining relief from the requirements of the Act, and point out the possibility that our State Agency will be bankrupt in a very short time if we are forced to comply with the provisions of overtime payment of wages to our Livestock Brand Inspectors.

First, may I state that our State Agency is supported for the most part by the livestock industry of Nebraska, primarily the cattle industry.

Secondly, may I point out that by the very nature of the industry, cattle movements are seasonal, and they vary to a great degree by marketing conditions, meat prices, truck strikes, fuel availability, and other such external factors. Consequently, our full time Livestock Brand Inspectors must reside in strategic geographical areas of the state. They must be available during daylight hours, and on occasion must work hours in excess of forty hours per week. Since we are a fee operated, cash fund State Agency, we must operate within the scope of the monies available as derived from Brand Inspection fees. If we are forced to limit our employees to a forty hour week, we will then be unable to provide the quality and types of services to the industry, for which we are charged with performing by State Law. If we require our Livestock Brand Inspectors to work in excess of forty hours per week, we will then be forced out of existence by the Fair Labor Standards Act overtime requirements.

Traditionally, during the slack seasons of the year our employees work many weeks of less than forty hours per week, however, they still receive a full month's pay, just as if they had worked a full forty hours per week. However, during the busy months of the year they frequently must work hours in excess of forty. To date, none of our employees have complained about the hours in excess of forty, because they know much of the year they do not work a full forty hour week.

With this thought in mind, we respectfully request your assistance in seeking a realistic amendment to the Fair Labor Standards Act, whereby our State Agency can possibly gain an agricultural exemption for all categories of our Livestock Brand Inspectors.

We are enclosing copies of additional correspondence from other states and organizations presently having similar problems, and pointing out to you at this time the fact that our situation is critical. Livestock Brand Inspection work is a very unique type of work, and we feel it is totally unrealistic for the Federal Government to expect Livestock Brand Inspection agencies to comply with a law that is primarily geared for non-agricultural work.

Thank you in advance for kindly giving this matter your attention and consideration.

Very truly yours,
ALLEN J. BEERMANN,
Secretary of State, and Chairman, Nebraska Brand Committee.
ART THOMSEN,
Secretary and Chief Inspector, Nebraska Brand Committee.

AMERICAN NATIONAL
CATTLEMEN'S ASSOCIATION,
Denver, Colo., September 3, 1974.

Mrs. BETTY MURPHY,
Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C.

DEAR MRS. MURPHY: As Chairman of the American National Cattlemen's Association Committee on Brand and Theft and as a member of the Nebraska State Brand Board, I am requesting that an administrative opinion granting "livestock brand inspectors" exemption from the overtime provisions of the Fair Labor Standards Act of 1938 as amended. Said "livestock brand inspectors" ought to be classified as agricultural employees.

Brand inspectors inspect only livestock for the owner and potential purchaser and are paid from funds raised from fees charged for the inspection or from taxes levied on the livestock or from a combination of both. The program serves only the agricultural industry and is financed by the industry even though administration is generally by a state agency under the authority of state law.

While conditions of employment vary somewhat from state to state, basically brand inspectors are employed to do a job and not to work set hours. During the "off season" many inspectors work very few hours but must be available when needed. Many of these inspectors hold outside employment with the understanding that they are to be available when called to perform the duties as brand inspectors. On the other hand, during the "cattle runs", many inspectors work 50 to 60 hours a week in order to serve the industry. This situation is one of the conditions of employment and has traditionally been taken into consideration by both employee and employer.

It is doubtful that the inspection system can continue to operate or exist if subjected to the overtime provisions of the Act. Competent part-time or seasonal help would not be available to provide the man power necessary during the "cattle runs". It is necessary to maintain a full staff during slack times in order to insure availability of qualified inspectors when they are much in demand. At the present level of compensation, the requirement of one and one-half for over 40 hours would bankrupt the system. Less than full service at this very critical shipping season would be unacceptable to the industry. It would appear that our only other alternative would be to ask the state legislatures to repeal the inspection laws which protect the industry and to proceed on whatever hit-and-miss basis of inspection the industry could afford. This would result in less protection from cattle theft and because of reduced inspections during the cattle runs, less revenue and the accompanying reduction of personnel. In my opinion, neither the reduced protection to the cattle industry or the elimination of any brand inspection positions would be desirable.

Please give this request your prompt and earnest consideration.

Respectfully submitted,
CALVIN L. COULTER,
Chairman, ANCA Committee on Brand and Theft.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3911

At the request of Mr. BENTSEN, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3911, a bill to establish a Commission on Federal Paperwork.

S. 4139

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 4139, a bill to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 35 from 36 to 45 months.

S. 4162

At the request of Mr. HUGH SCOTT, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 4162, a bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters.

S. 4196

At the request of Mr. HUGH SCOTT, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 4196, the campaign financing bill.

S. 4207

At the request of Mr. RIBICOFF, the Senator from Maryland (Mr. BEALL) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 4207, the Emergency Unemployment Compensation Act of 1974.

S. 704

At the request of Mr. ALLEN, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 704, the Regulatory Commissions Independence Act.

SENATE RESOLUTION 446—SUBMISSION OF A RESOLUTION DISAPPROVING THE PROPOSED DEFERRAL OF BUDGET AUTHORITY TO CARRY OUT HOMEOWNERSHIP ASSISTANCE

(Ordered to be held at the desk.)

Mr. SPARKMAN (for himself, Mr. HUMPHREY, Mr. JAVITS, Mr. BROOKE, Mr. PERCY, Mr. CRANSTON, Mr. PROXMIRE, and Mr. HATHAWAY) submitted the following resolution:

S. RES. 446

Resolved, That the Senate disapproves the proposed deferral of budget authority to carry out the homeownership assistance program under section 235 of the National Housing Act (numbered D75-48), set forth in the special message transmitted by the President to the Congress on October 4, 1974, under section 1013 of the Impoundment Control Act of 1974.

THE HOUSING CRISIS

Mr. SPARKMAN. Mr. President, housing is in one of its worst slumps since the thirties. Residential construction is

dragging along at an annual start rate of a little over 1 million units a year, compared with 2 million units in 1973 and nearly 2.4 million units in 1972.

Unemployment among construction workers is estimated at 14 percent and reports come in daily about homebuilding and related firms going out of business or into bankruptcy.

The need for housing to provide decent shelter for our people is not being met. Not only low-income families, but middle-income families, cannot afford the housing that is on the market today. It is estimated that over 400,000 recently built homes remain unsold because they are priced out of reach of the vast majority of families searching for homes.

Inflation and tight money are the two principal reasons for this situation. Another reason is the failure of our Federal Government to respond to the need. The big turning point in housing production came in January 1973 when the Nixon administration closed down all Federal subsidy programs. Despite everything that Congress has done to the contrary, including the passage of an omnibus housing bill in August of this year, the administration has not lifted the moratorium on these programs without which most families of low and moderate income cannot afford decent housing.

The administration has made available mortgage credit through the secondary mortgage market facilities but such efforts have been leveled at housing for upper income families where there is already a surplus of unsold inventory. Very little of these funds has trickled down to benefit families of moderate income. Furthermore, the terms of the Federal credit were so restrictive that less than one-third of the federally aided credit has found its way into housing starts.

The reason for this is the failure of the administration to recognize or seemingly to care about the serious depressed state of the housing and home finance industries or on the plight of millions of American families seeking decent shelter. Many administration spokesmen still think of housing activity as a contracyclical tool to be used to dampen down inflation. They seem to welcome the sharp housing downturn when money is tight and have no qualms about the devastating impact of such a roller coaster system on the efficiency of the industry, on the well-being of construction workers or on the welfare of our people who are seeking decent shelter. Mr. President, I believe the time is here for action by the Congress to overcome the indifferent attitude of the administration to meet the housing needs of our people.

There are a number of actions that can be taken.

First of all, and most constructive, is to insist that the administration implement all the existing authority for housing assistance given to it by the Congress.

A most serious affront to Congress was the imposition of a moratorium on all housing and community development programs in January 1973. Equally serious, however, is the latest challenge to Congress by the administration failing to implement programs reinstated and approved by the recent Housing and Community Development Act of 1974. In this case, the administration proposed to Congress a new single rental assistance program to replace all existing programs. After considerable debate by both Houses of Congress, the administration proposal was turned down. The law passed and signed by the President authorized the implementation of the administration's housing rental assistance plan—identified as section 8 of the Housing Act of 1937—with certain significant modifications, but also extended and approved amendments for other programs to be implemented simultaneously with the section 8 program. These include the continuation of the section 202 program for the elderly, the conventional public housing program for low-income people, the FHA homeownership assistance program—section 235—and the FHA rental assistance program—section 236—for lower income families; also a State housing finance program.

None of these programs has been implemented for new projects and, as far as we have been able to ascertain, none is likely to be implemented in the foreseeable future.

I believe we have two important policy matters facing the Congress. One is a constitutional issue. To what extent should the administration be required to carry out the laws passed by the Congress? Fortunately, there is procedure now in law, title X of the Budget and Impoundment Control Act of 1974, which should settle this issue. I intend to use fully the authority of that act to resolve the differences between the administration and the Congress on housing matters.

The other policy matter involves the economy and to what extent further action needs to be taken to spur housing construction which, in turn, could be an important stimulant to the economy to help reduce unemployment and prevent the Nation from falling further into a serious recession.

Mr. President, I am introducing today an impoundment resolution to disapprove a proposal by the President to defer funds appropriated by the Congress for the FHA homeownership assistance program, item D 75–48 of the President's rescission and deferral message, dated October 4, 1974. This program, originally authorized in 1968, was extended and significantly amended by the Housing and Community Development Act of 1974. The purpose of this resolution is to convey to the President, in as clear language as possible, that the Congress intends that new housing law be carried out.

The resolution would, in conjunction with the new Budget Impoundment Control Act of 1974, end the impoundment of funds appropriated by the Congress to assist eligible homebuyers meet the current high cost of mortgage money. I believe that passage of this resolution is an urgent matter at this time. Passage should result in the immediate release of the impounded funds by the Office of Management and Budget to the Department of Housing and Urban Development which, in turn, would be required to make these funds available immediately for commitment subject, of course, to the few updating provisions of the recently enacted Housing and Community Development Act of 1974. The homeownership program can be implemented quickly. I am told by builders across the country that homebuilding activity could be underway within weeks of congressional action. I am also told that restoring the homeownership program would increase construction employment much sooner than will the section 8 leasing program authorized by the new housing law. The section 8 program, as you know, has not yet been tested in the market—in fact, has not yet been finally approved by HUD as an operating program. The final regulations have not yet been issued, nor has the allocation of funds been made. Furthermore, because of certain priority requirements and program restrictions, developers and homebuilders have informed the committee not to expect any significant production under the section 8 program for some time to come.

The homeownership assistance program, on the other hand, has been in effect a number of years and would require only a few updating regulations to reinstate it as an effective program.

Because the homeownership program can be implemented almost immediately, home buyers and homebuilders have been urging me and other members of the committee to seek its full restoration now, as part of an emergency housing program during this period of rising construction unemployment and declining home buying opportunity.

They have also pointed out, convincingly, that such action would not be inflationary or budget-busting.

NOT INFLATIONARY NOR BUDGET-BUSTING

Reducing unemployment in a depressed industry is not inflationary. The release of impounded housing funds would not only help solve the high unemployment problem of construction workers—now at 14 percent—but would stimulate needed employment in a variety of related industries throughout the country which are sinking to recession levels.

Nor is it budget-busting to spend Federal funds to help rescue the depressed labor-intensive homebuilding industry from its worst slump in years. The multiplying effect of these funds to increase activity and unemployment in a depressed industry would result in a net gain to the Treasury. The reduction in Federal payments for unemployment compensation and the increase in income taxes resulting from more work for construction workers and builders would far outweigh the Treasury outlay of subsidy funds. Furthermore, the unique financing device of the interest subsidy program generates $15 to $20 of private spending for every $1 of Federal spending. This is a significant multiplier which stimulates a much greater amount of private spending and, as we know, it is the private spending that generates taxable revenue. In addition, because the subsidy outlay is not made until the construction is completed, the bulk of the Federal outlays would be in fiscal 1976 for construction started in the spring of 1975. There are no firm estimates on what the outlays for fiscal year 1975 may

be, but of the $264 million in contract authority available through August 22, 1975, it is unlikely that more than one-third would be disbursed as a subsidy in fiscal year 1975.

BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. President, I would like to explain the peculiar status of the homeownership assistance item with respect to the Budget and Impoundment Control Act of 1974.

As you know, title X of this act provides two ways for the President to terminate or defer spending of an appropriated fund, either through a budget rescission or a budget deferral. In each case, Congress has the opportunity of overturning the President's impoundment and to require that the funds, once appropriated by the Congress, be made available for obligation.

Mr. President, I ask unanimous consent to enter into the RECORD at this point in my remarks a brief summary of rescission and deferral provisions of the act.

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

SUMMARY OF RESCISSION AND DEFERRAL PROVISIONS OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Title X of this Act provides two ways for the President to terminate or defer spending that the Congress has provided—either through a budget rescission or a budget deferral. In each case, Congress has the opportunity to overturn the President and to require that the funds it originally provided be made available for obligation.

RESCISSION OF BUDGET AUTHORITY

When the President decides not to use all or part of the money which the Congress has provided for a program, he must send a rescission message to the Congress. The House and Senate then have 45 days in which to approve the President's proposal through a rescission bill canceling the budget authority previously made available. *This bill must be passed by the House and Senate and signed by the President.* If this is not done within 45 days of the date of the Presidential message containing the proposed rescission, the money must then be made available for obligation.

DEFERRAL OF BUDGET AUTHORITY

When the President proposes to delay spending for some project or program for some period of time not beyond the end of the fiscal year, he must send a budget deferral message to the Congress.

The President may then defer spending according to his proposal unless and until *either the House or Senate passes* an impoundment resolution disapproving the proposed deferral. As opposed to the rescission process, this requires action by only one House.

CUMULATIVE REPORTS

The act requires the President to submit to Congress by the 10th day of each month a cumulative report of rescissions and deferrals. These reports are published as House documents. Reports submitted thus far are contained in H. Doc. 93-392 and H. Doc. 93-393.

RESPONSIBILITIES OF THE COMPTROLLER GENERAL

The Comptroller General has the responsibility to report to Congress if he finds that deferrals or rescissions have not been transmitted to Congress, but are in fact being made. He must also report to Congress if he determines that an action has been improperly classified as a deferral or a rescission. If amounts are made available for obligation under the act by Congressional action or inaction, the Comptroller General is authorized to bring court action to require that such amounts are made available for expenditure if the President fails to do so.

These reports are also published as House documents. Reports submitted thus far are contained in H. Docs. 93-390, 93-391, and 93-394.

DISCHARGE OF COMMITTEE—25 DAYS TO ACT

The Act provides that if a committee to which a rescission bill or a disapproval resolution has been referred has not acted in 25 days, it is subject to discharge on a motion of an individual Member if supported by one-fifth of the Members of the House involved. If discharged, it shall be immediately in order to consider the measure in the House.

Mr. SPARKMAN. Mr. President, in the case of the homeownership assistance funds, the President classified his impoundment of the funds as a deferral in his message to Congress dated October 4, 1974. The Comptroller General, in a letter to the President pro tempore of the Senate dated November 6, 1974, ruled that the President erred in classifying the proposed impoundment as a deferral and should have classified it as a rescission. He submitted a legal opinion and analysis on his reasoning. Subsequently, I sent a letter to the President reminding him of the Comptroller General's ruling and of the statutory requirement that such funds must be released unless Congress enacts legislation supporting such a rescission within 45 days. Pointing out that I did not anticipate such congressional action, I urged that he release the funds immediately and help provide support for the depressed homebuilding industry and to help meet urgent shelter needs of our lower income people.

Mr. President, I request unanimous consent to have my letter to the President printed at this point in my remarks.

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

NOVEMBER 27, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On October 4, 1974, you sent to the Senate proposed rescissions and deferrals of appropriations authority pursuant to Section 1012 of PL 93-344, the Congressional Budget and Impoundment Control Act of 1974. Among these, you included as a proposed deferral the Homeownership Assistance Program (Item D-48).

On November 6, 1974, the Comptroller General reported to the Senate that Item D-48 had been incorrectly classified and that, under the authority vested in him by the new law, he had reclassified the Home Ownership Assistance Program as a proposed rescission.

Under the new law, proposed rescissions do not take effect unless Congress enacts a rescission bill within 45 days of the receipt of the President's message. I do not anticipate such Congressional action and, therefore, expect that the Office of Management and Budget will allocate, and the Department of Housing and Urban Development will make available for commitment within the next month, the $264 million in appropriated homeownership funds impounded since January, 1973. I believe that this commitment would give hope to many ill-housed lower income families and give a significant boost to the seriously depressed housing industry.

Accordingly, I am writing to you at this time on behalf of the Committee on Banking, Housing and Urban Affairs to ask what steps you are taking to make available Homeownership Assistance funds authorized under the Housing and Community Development Act of 1974. Because the Homeownership Program can be implemented almost immediately, members of the Committee are being urged by developers, home builders, and consumer groups to seek its full restoration now as part of an emergency housing program during this time of rising unemployment and declining economic activity. I would, therefore, appreciate your prompt response to this inquiry.

Sincerely,

JOHN SPARKMAN.

Mr. SPARKMAN. Mr. President, not having heard from the President and fearing a possible loophole in the rescission process, I felt it incumbent to pursue the course of action implied by the impoundment resolution which I am introducing today. Passage of this resolution by the Senate would effectively close off any possibility of the administration avoiding the release of these funds.

Mr. President, it is extremely distressing for me and for members of my committee to have to struggle continuously with the administration to get compliance with the law with respect to the housing assistance programs. The administration took an arbitrary and, I believe, an irresponsible action in January, 1973, in cutting off all housing assistance programs. This action, taken without consultation with Congress, signaled the turning point in the volume of housing production in this Nation from its highest level in history in 1972 to what may now be approaching one of its worst depressions. In the last 2 years, housing starts dropped almost monthly. Without Government support and with mortgage interest rates reaching their highest level in recent history, only upper-income families could afford new homes. The administration's meager attempts to feed in added supplies of mortgage credit through the secondary market facilities merely increased the construction of higher priced homes, of which there was already an oversupply. No financing was made available for the low- and moderate-income family where the greatest need exists.

The 1974 Housing and Commodity Development Act passed by the Congress and signed by the President in August called for a balanced housing program, a section 202 program for the elderly, a public housing program for the poor, a homeownership assistance program for qualified lower-income home purchasers, and a rental assistance program for low- and moderate-income renters. In order not to have two overlapping rental programs, it was agreed that the section 236 program would continue, but once the section 8 program met adequately the housing needs of lower-income families in any community, it would supersede section 236. No such arrangement was worked out with respect to section 235, the homeownership assistance program.

The program was continued for 2 years, but the Senate conferees were forced to a compromise to limit the use

of existing appropriations authority to no later than August 22, 1975. Authority beyond that would be subject to further appropriations action.

It was a good faith compromise without which the conference could have ended in a deadlock. It is very distressing to see the administration reneging on that agreement.

To strengthen the homeownership assistance programs, several important amendments were agreed to in the 1974 act. One requires a down payment of 3 percent of purchase price rather than the previous flat $200. Another limits eligibility to families having annual incomes less than 80 percent of median income for the area, and a third mandates counseling for each new homeowner receiving assistance under the section 235 program. These three amendments, plus more efficient underwriting, should strengthen the program and significantly reduce the potential hazard of having families without the capacity for homeownership becoming eligible for assistance under the program.

Mr. President, the section 235 homeownership assistance program has been badly maligned by the Nixon administration. By talking it down almost constantly, the administration has influenced other well-intentioned political figures who have voted against its continuance. It was a Johnson administration program, but strangely enough it had bipartisan support. In fact, in 1967, every minority member of the Senate joined with Senator PERCY, who was on our committee at the time, in support of a homeownership program for the poor. It may have defects, but most of these were administrative rather than legislative. The program has many outstanding features which, for its limited market, cannot be duplicated by any other program. It is a relatively thin subsidy program to help the homeowner pay his interest charges. He must make monthly payments to amortize the principal and to meet other housing costs, plus 1 percent interest charges. He pays at least 20 percent of income. The annual subsidy for existing section 235 units is around $562, which compares with about an estimated $1,673 for the section 23 program according to a recent GAO report. The new subsidy cost for section 8 is estimated at over $3,000 a unit. Furthermore, this $3,000 subsidy goes on for the life of the contract—in some cases 40 years—whereas, under section 235, the subsidy gets less and finally disappears as incomes rise. The estimated life of the average subsidy under section 235 is 12 years.

One of the objections to the old 235 program was with respect to location of the unit. I believe with the new local housing plan statutory requirement, such units would be built only in locations consistent with the cities' plans. I hope the administration takes into account the many good features of the program, including those in the new law which should make this an attractive program for a limited number of eligible families.

The public housing program was also extended with certain significant modifications to make it more workable and to reduce the Federal Government's exposure. Similarly, the section 202 program for the elderly and handicapped was extended and modified to make it more palatable to the Treasury and yet effective to meet the needs of the elderly. Neither the conventional public housing program nor the section 202 program for the elderly has been implemented by the administration. However, no impoundment message has yet come from the President on these items.

Mr. President, these provisions were not made just to be ignored by the administration. They are the law, and the law should be carried out. It is fortunate that we now have a procedure for dealing with impoundments. It is now up to the Congress to follow through and make the new law work. I am hopeful that once the procedure is followed and the administration knows that we mean business, the other programs for which funds are being held back will also be implemented and it will not be necessary to go through this same procedure for each housing authorization under the 1974 act.

The economic situation today, Mr. President, makes it very necessary that the Government carry out an aggressive program to provide support for the construction industry. As I said earlier, the first thing should be to release all impounded funds. Next, the regulations should be liberalized with respect to programs for which Federal funds have been made available, such as those utilizing the GNMA, FNMA, and FHLMC systems to distribute the funds.

The Congress, in addition, may have to consider adding new authority to these programs to increase the availability of mortgage credit at reasonable prices. In doing this I hope that proper attention is paid to the needs of low- and moderate-income families, where the help is needed, so that any legislation approved by Congress can have the double effect of helping the economy and helping provide shelter to meet the national housing goals.

Another item that needs to be looked into is the growing problem of the unemployed being unable to meet their monthly housing payments. We have considerable authority in law for forbearance by HUD for mortgages insured by HUD, but the law is not clear as to what the Federal Home Loan Bank Board can do. At any rate, my committee has been hearing more and more about the problem, and we are studying what can be done.

Another matter for the long-term pull is what can be done to improve the flow of mortgage credit to level it out so we can avoid the terrible roller coaster impact of periodic shortages of credit. The Housing Subcommittee is conducting a study of mortgage credit problems, including a review of the secondary mortgage facilities, FNMA, GNMA, and FHLMC, and the insurance entities including FHA, VA, Farmers Home Administration, and private mortgage insurance firms. The subcommittee has considerable material at hand on the Government and private agencies involved in generating or insuring mortgage credit. It is now embarking on a broader study to determine the feasibility of other actions, including credit allocation by the Federal Reserve Board, tax incentives or other incentives to attract more credit into residential mortgages in tight-money periods. The study should not interfere with the committee's current consideration of a bill restructuring financial institutions. It is obvious that restructuring the financial institutions would not go far enough to meet our future mortgage credit requirements.

Our mortgage credit system is a complex one involving the level of interest rates, mortgage insurance, secondary mortgage facilities, the role of mortgage bankers, direct Federal and State lending, and many other variables that are not addressed by a financial institution restructure bill.

I have asked the staff of the Housing Subcommittee to look into these matters and, if possible, obtain the views of outside professionals, academicians, and others who would provide the committee the base material for extensive hearings on the subject.

Mr. President, I have covered a lot of ground today. Much more needs to be said, but more importantly, more needs to be done. I hope that the Members of the Senate will support my resolution and will stand ready to provide whatever new legislation is required to insure that housing programs are restored to their proper level, both for the sake of meeting our housing goals as well as providing the spur to a badly faltering economy.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that this resolution disapproving the proposed deferral of budget authority to carry out the homeownership assistance program under section 235 of the National Housing Act be held at the desk pending further disposition.

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

SENATE RESOLUTION 447—SUBMISSION OF A RESOLUTION PROVIDING FOR RADIO AND TELEVISION COVERAGE OF SENATE PROCEEDINGS

(Referred to the Committee on Rules and Administration.)

Mr. METCALF. Mr. President, I introduce for appropriate reference a resolution authorizing a year's experiment with radio and television broadcast coverage of Senate floor sessions, together with a running summary of floor debate transmitted by teletype to Members' offices and to the news galleries.

This resolution, cosponsored by Senators TAFT, GRAVEL, ROBERT C. BYRD, and HUGH SCOTT, implements recommendations approved by the Joint Committee on Congressional Operations in an interim report (No. 93–1275) on its study of Congress and mass communications.

During the 93d Congress, the Joint Committee has been exploring ways to improve channels of communication between Congress and the American people. The Chairman of the Joint Committee for the 92d Congress, the distinguished Representative from Texas (Mr. BROOKS) requested the Library of Congress in December 1972, to undertake a

comprehensive background study. Subsequently, the Joint Committee conducted 6 days of public hearings in the winter and spring of 1974. Many Members of Congress testified at the hearings, together with commercial and public broadcasting executives, local broadcasters, working journalists, experts in the field of communications law and technology, members of State legislatures, and broadcast industry representatives.

The Joint Committee was motivated to pursue this project out of a growing concern, one that I know many Senators and Representatives share, that Congress is doing a poor job in reaching the people with its views on the critical issues of the day. As I said in remarks opening the hearings:

> A Congress unable to project its voice much beyond the banks of the Potomac—to be heard and understood only dimly outside Washington, D.C.—can be neither representative nor responsive. A Congress able only to whisper, no matter how intelligently, cannot check and balance the power of the Executive or safeguard the liberty of the individual citizen.

The Joint Committee was not—and I emphasize this point—engaged in devising a slick public relations program to improve the "image" of Congress. If Congress is to so command and sustain the public's confidence, Congress must meet the public's legitimate expectations concerning the operations of its national legislature. But, by the same token, it is essential that the flow of information between Congress and the people be as accurate and complete as possible. Only then will the people be in a position to make accurate and fair judgments about congressional performance.

In the Joint Committee's interim report, approved on October 10, 1974, which includes separate views filed by the distinguished Senator from North Carolina (Mr. HELMS), we have developed in some detail the nature of the communications problem that confronts Congress today, its effect in the legislative process, and a series of recommendations that give promise of improving the present situation. It is not my intention today to repeat in detail the contents of the interim report. But I do believe it is necessary to touch briefly on several important aspects of the Joint Committee's work.

It is clear from testimony at the public hearings, supplemented by findings in the Library of Congress study, that the average American has only the vaguest notions as to the structure, role, or membership of Congress. Although this is not a new finding, it is of special importance today when considered in light of two other facts developed in the hearings. First, Americans generally recognize they lack the information to involve themselves effectively in Government at any level and they want the knowledge required for meaningful participation in the broad policy debates and decisions that shape their lives. Second, there is evidence that Americans want Congress to play a more influential role in the formation of national policies, both domestic and foreign.

This suggests that an effort by Congress to improve the flow of information between itself and the people would fill both a well-documented need and a growing public desire. Moreover, there is solid evidence from a variety of sources that television news is the principal source of information about Government and politics for most people.

The public's need and desire to know more about Congress cannot be separated from another basic consideration. For almost a decade, every reliable indicator of public opinion has disclosed evidence of increasing cynicism about the performance of most democratic institutions and distrust for elected officials who serve in them. Congress is very much part of this indictment.

These public attitudes are a mix of many ingredients, including congressional shortcomings accurately perceived. But, as Vice Chairman BROOKS pointed out in his remarks at the opening hearing:

> Congress does move with reasonable speed—and a concern for the facts—and a serious desire to accommodate all or most all conflicting interests on any issue. Congress is a much more effective and responsible body than most people seem to believe.

Congress has been overshadowed by the President and the executive branch in coverage by the mass communications media and in the public's mind. This fact can be explained, in part, by the growth of the Presidency in response to domestic and international events. But it is also noteworthy that successive Presidents of both political parties, and the executive branch as a whole, have moved vigorously over the past half-century to adapt the techniques of mass communications to the activities of Government and politics. Congress, meanwhile, has maintained an essentially passive approach to communications and has not equipped itself as an institution to utilize mass communications effectively in reaching the American people.

The distinguished Senator from Arkansas (Mr. FULBRIGHT) testifying in behalf of his 1970 Senate resolution to authorize congressional access to network television, pointed out the constitutional impact of this imbalance in the communications capabilities of the legislative and executive branches. Senator FULBRIGHT said:

> Communications is power and exclusive access to it (by the executive branch) is a dangerous unchecked power.

Many of us in this body have worked hard to begin the long process of restoring to Congress certain duties and powers that have been lost or handed over to the Executive. This process undoubtedly will continue in the 94th Congress, as it should. But the ultimate impact of this reassertion of congressional prerogatives will, in part, be determined by our success in achieving greater equality of treatment in the mass communications media.

For instance, Mr. President, what good will it do for Congress to implement faithfully the provisions of the Congressional Budget and Impoundment Control Act of 1974—that is, to make independent judgments as to the size of the Federal budget, the priorities within the budget, and the amounts and sources of Federal revenue—if the President defines and dominates the public's perceptions of these issues?

I am not suggesting that Americans should necessarily see less of their President, but more Americans should have an opportunity to see and hear—and ultimately to understand—the congressional point of view on budgetary and other important matters.

As discussed in the Library of Congress study, one dimension of this question concerns direct access to network television and radio afforded congressional spokesmen. That is, when the President requests and is given broadcast time for an address to the people, comparable time should also be made available to Members of Congress. The Joint Committee did not attempt to deal with this aspect of the problem for two reasons. First, the issue involves interpretations and application of the FCC's "fairness doctrine," an area of substantive legislation beyond the purview of the Joint Committee. Second, commercial and public broadcasters have started to recognize during the past 2 years the need for greater equity in balancing Presidential and congressional broadcast appearances. One can point to a measure of progress in this area, at least in comparison to the near total blackout of congressional viewpoints that existed for many years. I am hopeful that voluntary efforts to achieve balance will continue. Clearly, this is the easiest way to avoid the need for corrective legislation.

Direct access, however, is only one factor in understanding the President's domination of the mass communications media. Far more important is the amount and type of daily coverage of the President that appears on network and local news broadcasts in comparison to the coverage afforded Congress. It is to achieving greater balance in this area, as well as to provide Americans with an opportunity to see their national legislature at work, that the Joint Committee's recommendations are directed.

We received extensive and compelling testimony by broadcast executives and network news directors of the problems that are routinely encountered in covering Congress. These include inadequate physical facilities in the Capitol, complex and restrictive rules, closed committee sessions, and the fact that regular sessions of the House and Senate are off limits to television and radio. Even the volume of congressional business tends to overwhelm the broadcast media so that only the most obvious stories attract attention. The bulk of congressional activity goes unnoticed and unreported.

Taken together, these and other factors result in superficial and often misleading impressions of Congress. The institutional dimension—the procedures and process that are essential in fulfilling the congressional role—is almost totally lost. As a consequence, Americans have almost no understanding of the constitutional function that Congress is striving to fulfill. More often than not, Congress is

simply pictured as obstructing Presidential initiatives of one kind or another.

Over time, this situation can be improved considerably. The Joint Committee learned from its hearings that many State legislatures, city councils, local boards of education, and other public bodies are covered successfully by television and radio. We received testimony from legislators representing the Connecticut General Assembly and the Florida State Legislature, and from public broadcasters in these States. These witnesses described the results of live and videotaped broadcast coverage of regular floor sessions, and testified that the broadcasts have been well received by the public and by the members of the State legislatures. The story is the same in many other States.

Commenting on the extensive live coverage of the General Assembly's floor debates by Connecticut Public Television, David B. Ogle, executive director of the General Assembly's Joint Committee on Legislative Management said:

> As a result of this coverage, the people of Connecticut are unquestionably more aware than ever before of their legislature as an institution and of their individual representatives as people . . . our individual legislators generally approve of such coverage, for with it there is no middleman interpreting their statements for their constituents.

The success of broadcast coverage of the Florida State Legislature in 1973 was suggested by the legislature's decision to appropriate $1,365,000 for broadcast facilities in the State capitol and for continuation of public television programing in 1974.

Both States reported that the large majority of legislators did not attempt to exploit the presence of television cameras, nor did the fact of broadcast coverage disrupt or change the nature of the legislative process itself. Once the novelty had worn off, in about 2 months time, the presence of television cameras in the chambers was simply forgotten.

Members of the Joint Committee are very aware of the difference between floor debates in a State legislature and those in Congress. In particular, it is true that a far greater proportion of the legislative process in Congress occurs off the floor in committees. We believe, however, that the system recommended in the interim report takes these differences into account. Moreover, we are suggesting a trial period of one congressional session, followed by a period of careful evaluation, before making any decisions as to permanent broadcast coverage.

As set forth in the resolution I am introducing today, the Joint Committee on Congressional Operations recommends the following actions:

First, provision of a continuous video feed, initially serving monitors in a limited number of House and Senate office locations. After a trial period of approximately 60 days, to provide for technical adjustments, this feed can be made available to commercial and public broadcasters, network organizations as well as local stations, for use live or recorded on videotape for delayed use in news or public affairs programs as they see fit. Congress should exercise no control over the selection of materials for broadcast use.

Second, provision of a continuous audio feed, initially carried into each congressional office via existing telephone lines. After a trial period of approximately 30 days, this feed can be made available to commercial and public broadcasters under the same conditions specified above.

Third, provision of a running summary of floor debate, daily committee schedules, bill status and other relevant information, transmitted on teletype printers and made available for use in the press galleries, by the wire services and other media outlets, as well as for use by Members of both Houses. A final printed summary, plus principal actions of each committee and subcommittee, can be prepared and made available for distribution shortly after the close of each day's House and Senate session.

I should note, at this juncture, that the Joint Committee on Congressional Operations in 1973 operated a system for preparing and transmitting a summary of proceedings in both Houses on an experimental basis. Reports of the experiment were filed in both the House and Senate—see House Report No. 93–356 and Senate Report No. 93–294.

The resolution for broadcast coverage also provides that copies of the videotapes and audio recordings shall be deposited with the Library of Congress for historical and educational purposes.

Under provisions of the resolution, the test would be supervised by the Senate Committee on Rules and Administration.

As we point out in the interim report, it is essential that trained professionals be employed by the supervisory committee during the test period, and that precise guidelines be established for the test period. Although the Rules and Administration Committee will establish these guidelines, the Joint Committee, on the basis of its hearings and supplementary study, identified a number of conditions and arrangements that appear worthy of consideration.

For instance, as stated in our report, we believe that the Committee on Rules and Administration—after determining the general rules and conditions for broadcasting—should consider inviting the Public Broadcasting Service to submit a detailed proposal for setting up and operating the necessary cameras and related equipment for the duration of the test. Similarly, National Public Radio could be invited to set up and operate the equipment for the audio feed.

Mr. President, I ask unanimous consent that this list of suggestions developed by the Joint Committee be printed at this point in the RECORD.

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

EXCERPTS FROM "BROADCASTING HOUSE AND SENATE PROCEEDINGS"

(Interim Report of the Joint Committee on Congressional Operations on Congress and Mass Communications, October 10, 1974.)

Conditions and arrangements for broadcasting during the test period will, of course, be determined by the committee or committees conducting the test. However, based on the Joint Committee's hearings and supplementary study, we urge that the following be given consideration:

While arrangements can be made to lease equipment and to employ temporary camera crews and other production personnel, these could probably be readied for operation more quickly if the Public Broadcasting Service were to supply them. We believe the committee or committees involved should explore this alternative and, after determining the general rules and conditions for broadcasting, should consider *inviting* PBS to submit a detailed proposal for setting up and operating the necessary equipment for the duration of the test.

During the test period, the audio and video feed should be made available to broadcasters free of charge. In addition, complete recordings should be stored and made available, in part or in whole, at reasonable cost to all broadcast organizations, educational institutions, and similar organizations requesting them.

The most modern, light sensitive, electronic cameras should be required, and these should be installed in the galleries. No cameras should be permitted directly on the floor of the Chamber in either House. Individual networks or other broadcasters should not be permitted to maintain or use "unilateral" cameras in the galleries, nor should there be any "anchoring" by either radio or television commentators in the House or Senate Chambers.

A sufficient number of cameras should be installed to provide coverage of the entire floor of each Chamber, so that those intending to speak need not move into designated locations. The committee or committees involved should explore the possibility of enclosing the camera positions in temporary booths, so that they are as unobtrusive as possible. As a general rule the cameras should remain with those who are speaking, and "panning" for reactions while a presentation is in progress should be held to a minimum. This should not preclude variation of the camera angle or "wide" shots, however, particularly during the opening of each day's proceedings, so that viewers may get an accurate picture of the Chamber.

Procedures should be adopted to ensure that broadcast coverage is carried out in a non-partisan manner and is fair and equitable in recording the views of Members participating in floor proceedings. Also, the committee or committees involved should provide for receiving and acting expeditiously on any obections by Members pertaining to such coverage.

We also recommend that appropriate arrangements be made for comprehensive evaluation of each phase of the test program and that the committee or committees conducting the test be directed to report on whether a system for providing broadcast coverage of House and Senate Chamber activities should be inaugurated prior to the beginning of the Bicentennial Year. This evaluation should include but not be limited to—

The effectiveness of the closed-circuit video and audio systems as a method for monitoring floor activities in the House and Senate.

The extent and nature of the use of audio and video materials made available to commercial broadcasters.

The effect of broadcast coverage on the floor proceedings of the House and Senate, and the attitudes of Members of both Houses toward such coverage.

The response of the general public to broadcast coverage of floor proceedings of the House and Senate.

The effectiveness of the printed summary of floor proceedings and other congressional activities, from the point of view of both congressional and news media users.

Finally, we recommend that Congress make it clear, in language similar to relevant

provisions of Section 116(b) of the Legislative Reorganization Act of 1970, that audio and video materials produced during this test are—

Intended for the education, enlightenment, and information of the general public;

Not for use in commercial advertisements, and, in the case of live coverage, are to be presented without commercial sponsorship; and

Not for use in any way whatsoever in paid political broadcasts or other campaign material, to promote or oppose the candidacy of anyone for any elective public office.

While precluding direct commercial sponsorship of audio or video material produced during this test, the intent should not be to prohibit use of excerpts on news programs or in public affairs documentaries that are supported by commercial sponsors. And the intent should be to prohibit the use of these materials in paid political commercials or advertisements of any kind by both sitting Members of the House or Senate and challengers.

Mr. METCALF. What kind of broadcast coverage could you expect from this type of system?

First, although the floor sessions would be recorded on a gavel-to-gavel basis, extended live coverage of the Senate would occur only in exceptional circumstances. Ordinarily, commercial network coverage would be limited to the use of excerpts in news programs and in news specials and documentaries. Public broadcasting spokesmen anticipated somewhat greater use of videotaped material, although extended live coverage would still be the exception.

We could expect that the nightly news programs would carry highlights of the day's activities on the Senate floor, featuring key roll call votes, statements from floor debates, and the like. Instead of seeing an artist's rendering, Americans would see the Senate, at work, making decisions and conducting its legislative business. Local broadcasters would be interested in carrying excerpts that feature home State Senators. Issues of regional or local interest would be picked up by local stations in addition to the national coverage of national issues provided by the network news organizations.

Given this pattern of coverage, the public would not be presented with gavel-to-gavel broadcasts of Senate floor sessions. The danger of boring the American people to death is not a reality, nor are the news organizations going to be interested in routine floor activities when most Senators are in committee meetings or working in their offices.

We should also recognize that technical advances in broadcasting have made it possible to cover the Senate without installing extensive extra lighting. Existing light levels are nearly adequate for color coverage, assuming that the most sensitive equipment is used. In short, broadcast coverage can be accomplished without intruding unduly upon Senate proceedings and without disturbing or discomforting Members on the floor.

Finally, Mr. President, a personal word. Prior to the opening of the Joint Committee's public hearings on this question, I had the most serious reservations about the wisdom or feasibility of opening the Senate to broadcast coverage on a regular basis. As Chairman of the Joint Committee, I attended all but a few minutes of the 6 days of hearings that were eventually held. And, on the basis of this testimony. I came to believe strongly that we should proceed with a serious and sustained test of the system that I have described. To put it bluntly, when confronted with the facts, I changed my mind.

I believe that many other Senators who may question the wisdom of such an experiment would also change their minds, if they had an opportunity to read the hearing record, review the Interim Report, and examine the supplementary study prepared by the Library of Congress. Given the many challenges to democratic government that confront us today, I believe we should move forward with a test of broadcast coverage as soon as possible.

I ask unanimous consent that a copy of the resolution be included at this point in the RECORD.

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

S. RES. 447

Resolved, That (a), beginning as soon as possible during the first session of the 94th Congress and continuing for the remainder of that session, the Committee on Rules and Administration (hereafter in this resolution referred to as the "Committee") is authorized and directed to provide for radio and television coverage of the proceedings in the Senate chamber. Such coverage shall be provided for continuously at all times while the Senate is in session, except for any time when a meeting of the Senate is ordered with closed doors.

(b) The Committee shall maintain videotapes of such coverage and shall maintain separately recordings of the audio portion of such coverage. Copies of such videotapes and recordings shall be made available to public and commercial broadcasting stations as provided in this resolution. Copies of such videotapes and recordings shall be deposited with the Library of Congress and, under rules and regulations prescribed by the Committee, shall also be made available to educational institutions, libraries, and other organizations.

SEC. 2. (a) The Committee shall initially provide for monitors with which to receive the television coverage of the proceedings in the Senate chamber to be located in such offices in the Capitol and the Senate and House office buildings as it considers desirable. As soon as practicable, the Committee shall make the television coverage of the proceedings, and the videotapes thereof, available to public and commercial television broadcasting stations in accordance with the provisions of section 4.

(b) The Committee shall, at the request of any Member or officer of the Senate or the House, any committee of the Senate or the House, or any joint committee of the Congress, provide for transmission of the audio portion of the coverage of such proceedings into the office of such Member, officer, committee, or joint committee. As soon as practicable, the Committee shall make such audio portion, and recordings thereof, available to public and commercial radio broadcasting stations in accordance with the provisions of section 4.

SEC. 3. The Committee shall also provide a daily written summary of the proceedings of the Senate and other information pertaining to legislative activity. Under rules and regulations prescribed by the Committee such information shall be made available, by means of teletype printers or other written means to the news media and Members, officers, and committees of the Senate and the House, and to joint committees of the Congress.

SEC. 4. The radio and television coverage of the proceedings in the Senate chamber, videotapes of such coverage, and recordings of the audio portion of such coverage shall be made available to public and commercial broadcasting stations subject to the followings terms and conditions:

(1) Such coverage, videotapes, and recordings shall be broadcast solely for the education, enlightenment, and information of the general public.

(2) No part of such coverage, videotapes, or recordings may be used in any commercial advertisement.

(3) No part of such coverage, videotapes, or recordings may be broadcast with commercial sponsorship, except as part of bona fide news programs and public affairs documentary programs.

(4) No part of such coverage, videotapes, or recordings may be used to promote or oppose the candidacy of any person for elective public office, whether in a paid political broadcast or otherwise.

SEC. 5. (a) The Committee is authorized to employ such professional, technical, and other personnel as may be necessary to carry out the provisions of this resolution. The Committee is also authorized to enter into contracts with individuals, corporations, and organizations to carry out its functions and duties under the resolution.

(b) The expense of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

SEC. 6. As soon as possible after the conclusion of the first session of the 94th Congress the Joint Committee on Congressional Operations shall evaluate, and report to the Congress with respect to—

(1) the effectiveness of audio and video systems as a means of monitoring activities in the Senate chamber,

(2) the effect of radio and television coverage on proceedings in the Senate chamber, and the attitude of Members of the Senate toward such coverage,

(3) the extent and nature of the use of the radio and television coverage, and videotapes and recordings thereof, by public and commercial broadcasting stations in accordance with this resolution,

(4) the response of the general public to broadcasts of such coverage, videotapes, and recordings, and

(5) the effectiveness of the information provided and made available under section 3 from the viewpoint of the news media and Members, officers, and committees of the Senate.

SEC. 7. As soon as possible after the report required in Sec. 6 has been filed, the Committee shall report to the Senate with respect to the radio and television coverage of proceedings in the Senate chamber and other activities carried out under this resolution, together with its recommendations thereon, including its recommendations for continuing such coverage and other activities.

Mr. TAFT. Mr. President, as the ranking Senate minority member of the Joint Committee on Congressional Operations, I am delighted to join the Chairman of the Committee, Senator METCALF, in offering a resolution to provide, on an experimental basis, radio and television broadcast coverage of Senate Chamber proceedings and other innovations in the electronic transmittal of Senate debate.

This resolution is a cumulation of more than 2 years of study by Members and staff of the Joint Committee and is a

product of the statutory mandate of the 1970 Legislative Reorganization Act requiring the Joint Committee to conduct a continuing review of the institutional-operational aspects of the Congress and to expore options for reform. The proposal, in addition to establishing a procedure for an external distribution feed of television and radio coverage of Senate Chamber proceedings, also provides for improved communications within the Congress. Internal transmission of a running summary of floor proceedings via teletype to Members' offices would be established. Additionally, an internal closed circuit radio and television network is authorized for the transmission of Senate Chamber proceedings to congressional offices. Both services are recommended to be provided to the working press on Capitol Hill.

Restrictions would be imposed on the use of such coverage with no part of the proceedings permitted to be used in any commercial advertisement nor broadcast with commercial sponsorship, except as part of bona fide news programs or public affairs documentary programs. Broad restrictions also are included regarding the use of such coverage, to promote or oppose the candidacy of any individual for elective public office, whether in a paid political broadcast or otherwise.

The proposed changes in the Senate rules would be on an experimental basis beginning as soon as possible during the first session of the 94th Congress and continuing for the remainder of that session. The Senate Committee on Rules and Administration would be directed to implement the technical requirements of the resolution. The Joint Committee would evaluate the effectiveness of the program at the conclusion of the session and report such findings to the Congress.

One of the principal objectives of the Joint Committee in examining the area of Congress and mass communications was to identify various methods, consistent with its lawmaking function, that Congress might more effectively communicate the meaning of its constitutional role and daily activity to the American public. This resolution is consistent with that goal. It will permit millions of Americans an opportunity to visually participate through commercial, public, and educational media outlets in the legislative process and to become better acquainted with the complex policy questions that must be addressed in formulating national policy. Although such broadcast coverage will not be without its imperfections, it does provide a first step in responding to the problem of lack of communication between the electorate and the Congress and has the potential to be a stimulus in the important process of making the Congress a more open and responsive institution. In fact, these rule changes may force long-needed reforms in a number of areas, including the structuring and scheduling of floor debate. Undoubtedly, congressional critics will respond that radio and television coverage of Senate Chamber proceedings will only provide an additional forum for demagoguery and encourage Members to be Presidential aspirants. From a partisan minority position, one might also argue that such an experiment will only provide the majority with a better opportunity to "take on" the President. These criticisms while having some merit, fail, however, to credit the perception of the American public in identifying the shallowness of demagoguery or transparency of the unqualified candidate. With regard to challenges to the President, I do not foresee great problems. Undoubtedly, confrontations will develop between the legislative and executive branches, but the availability of broadcast coverage I submit will have little or no effect on the quantity of such conflicts and may in fact permit a more intelligent assessment by the public of the relative merits of the arguments advanced on disputed issues.

There is an unquestioned need to improve the communication between government at all levels and the public and Congress certainly is not an exception. Every time legislative action is taken on this floor, citizens' rights and responsibilities are affected. Policies of great national importance that may profoundly effect individuals' lives are decided on daily in this body—but two of the most often relied upon forms of communication by the American public for information regarding Government—television and radio—are not permitted to cover Senate Chamber proceedings. Television news is 13 percentage points ahead of the next most popular source of news, the newspaper, and 26 percentage points in front of the third leading source of citizen information, radio news, according to a recent Harris poll conducted for the Intergovernmental Relations Subcommittee. Television and radio are integral parts of American life—this resolution is a modest proposal to involve these widely accepted forms of mass communication and the citizens of the country more intelligently in the process of Government.

The resolution does contain some potential problems from both a substantive and technical standpoint. Certainly every precaution must be undertaken to insure that coverage is provided in all respects on a nonpartisan basis. The most advanced technology must be used. Cooperation must be undertaken with representatives of the communications media since they will be required to bear part of the expense of these changes and this by no means will be a profit-making venture for them. Close attention must be given to the successful broadcast procedures that have been developed by State, national, and international legislative bodies. Enactment of the resolution providing for an experimental approach will provide an opportunity to respond to these and other potential problems.

The Joint Committee has conducted an extensive analysis regarding this question and an excellent review of this data is contained in the Committee's Interim Report referred to by Chairman METCALF—Senate Report 93–1275. I commend it to the attention of Members and staff who may have questions in this area.

Hopefully, this resolution, with the encouragement already provided by Minority Leader SCOTT and Majority Whip BYRD will be adopted by the Senate before the conclusion of this Congress and will become one of the many reforms of the 94th Congress.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SERVICES AMENDMENTS OF 1974—H.R. 17045

AMENDMENT NO. 2020

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE. Mr. President, I submit an amendment to the Social Services Amendments of 1974 (H.R. 17045) which passed in the House of Representatives yesterday. My amendment deals with the problem of blind disability. I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

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

AMENDMENT No. 2020

"SEC. 7. (a) Section 214(a) of the Social Security Act is amended by adding "or" after the semicolon at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) in the case of an individual who has died and who was entitled to a benefit under section 223 for the month before the month in which he died, 6 quarters of coverage;".

(b) Section 215(b)(1) of such Act is amended by striking out "shall be the quotient" and inserting in lieu thereof "shall (except as provided in paragraph (5)) be the quotient".

(c) Section 215(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual who is blind (within the meaning of 'blindness' as defined in section 216(i)(1)), such individual's average monthly wage shall be the quotient obtained by dividing (A) the total of his wages paid in, and self-employment income credited to, all of the calendar quarters which are quarters of coverage (as defined in section 213) and which fall within the period after 1950 and prior to the year specified in clause (i) or clause (ii) of paragraph (2)(C), by (B) the number of months in such quarters; except that any such individual who is fully insured (without regard to section 214(a)(4)) shall have his average monthly wage computed under this subsection without regard to this paragraph if such computation results in a larger primary insurance amount."

(d) Section 216(i)(3) of such Act is amended to read as follows:

"(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or (ii) if such quarter ends before he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; or

"(B) he is blind (within the meaning of 'blindness' as defined in paragraph (1) of this subsection) and has not less than 6

quarters of coverage in the period which ends with such quarter.

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage."

(e) The first sentence of section 222(b)(1) of such Act is amended by inserting "(other than such an individual whose disability is blindness as defined in section 216(i)(1))" after "an individual entitled to disability insurance benefits".

(f) Section 223(a)(1) of such Act is amended—

(1) by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof "or is blind (within the meaning of 'blindness' as defined in section 216(i)(1)),";

(2) by striking out "the month in which he attains age 65" and inserting in lieu thereof "in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1)), the month in which he attains age 65"; and

(3) by striking out the second sentence.

(g) Section 223(c)(1) of such Act is amended to read as follows:

"(1) An individual shall be insured for disability insurance benefits in any month if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such month, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or (ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

"(B) he is blind (within the meaning of 'blindness' as defined in section 216(i)(1)) and has not less than 6 quarters of coverage in the period which ends with the quarter in which such month occurs.

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage."

(h) Section 223(d)(1)(B) of such Act is amended to read as follows:

"(B) blindness (as defined in section 216(i)(1))."

(i) The second sentence of section 223(d)(4) of such Act is amended by inserting "(other than an individual whose disability is blindness, as defined in section 216(i)(1))" immediately after "individual".

SEC. 8. In the case of an insured individual who is under a disability as defined in section 223(d)(1)(B) of the Social Security Act, who is entitled to monthly insurance benefits under section 202(a) or 223 of such Act for a month after the month in which this Act is enacted, and who applies for a recomputation of his disability insurance benefit or for a disability insurance benefit (if he is entitled under such section 202(a)) in or after the month this Act is enacted, the Secretary shall, notwithstanding the provisions of section 215(f)(1) of such Act, make a recomputation of such benefit if such recomputation results in a higher primary insurance amount.

SEC. 9. The amendments made by this Act shall apply only with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974—S. 1988

AMENDMENT NO. 2021

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

TRADE REFORM ACT OF 1974—H.R. 10710

AMENDMENT NO. 2022

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, it has often been said that we are a nation of immigrants. Throughout most of our history, we have opened our doors to the peoples of the world and welcomed them to our shores. The world in turn has looked upon the United States as a sanctuary of freedom and opportunity.

In recent times, the encouragement of emigration from totalitarian regimes has been a fundamental goal of American foreign policy. We assisted the refugees of war-torn Europe after the Second World War, many of whom came to the United States. We played an important role in the establishment of Israel as a sovereign state for the displaced Jews of Europe. After the Hungarian Revolution of 1956, we even went so far as to make exceptions to our immigration laws in order to accommodate the thousands of courageous Hungarian freedom fighters who fled the Soviet tanks and bullets of Budapest. When Cuba succumbed to communism in the early 1960's, the United States, under the leadership of the late President Kennedy, brought thousands of Cubans to our land and assisted them in starting a new life.

Today there are millions more who are held against their will in the captive nations of this world, and many of them have close relatives here in the United States. The problem of reuniting these families is both perplexing and disheartening. But our spirits have recently been lifted by the prospect that under the proposed Trade Reform Act, we might be able to take advantage of the situation by exchanging our advanced technology, our trade, and our credits for a more liberal emigration policy in the Communist countries.

As my colleagues will recall, title IV of the Trade Reform Act authorizes the President to enter into bilateral commercial agreements to provide credit or most-favored-nation treatment to countries that are presently denied these trade benefits. Title IV also provides, however, that products exported from any nonmarket economy country are not eligible for credits or MFN treatment, and the President may not make any bilateral agreements with any such country, if that country, according to the President, denies its citizens the right or opportunity to emigrate, imposes more than a nominal tax on emigration or visas, or imposes more than a nominal tax, levy, or fine on a citizen as a consequence of his desire to emigrate to the country of his choice. These restrictions on credit extension and MFN treatment are known as the Jackson-Vanik amendment, which is now embodied in section 402 of the act. In its report of November 26, 1974, the Senate Finance Committee summed up the provisions of section 402 of the Trade Reform Act as follows:

> It is the Committee's understanding that the "Freedom of Emigration" amendment in the bill is intended to encourage free emigration of all peoples from all Communist countries (and not be restricted to any particular ethnic, racial, or religious group from any one country).

The Trade Reform Act and the Jackson-Vanik amendment present a unique opportunity for the United States to use its great commercial strength as leverage against the repressive immigration policies of totalitarian countries. But we now confront the possibility that this opportunity will be lost. On December 2, Senator JACKSON proposed amendment 2000 to the Trade Reform Act, which gives the President temporary authority to waive section 402 for 18 months after he has received assurances that the emigration practices of that country will promote the objectives of section 402. Amendment 2000, in other words, seeks to nullify the restrictions on credit extension and MFN treatment in section 402 in those instances where the President has received assurances that obstacles in the way of emigration would be removed.

This newly proposed modification of the Jackson-Vanik amendment, Mr. President, is based on the belief that the Soviet Union has offered us assurances of a new emigration policy. Since April 1974, Secretary of State Henry Kissinger has been seeking a clarification of Soviet emigration policies through conversations with Soviet officials. These clarifications have been conveyed to Senators JACKSON, JAVITS, and RIBICOFF, eventually giving rise to an exchange of correspondence which Senator JACKSON published on October 18. All of these communications and discussions created the initial impression that the President and Secretary Kissinger have already received solid assurances from Soviet leaders that free emigration will be allowed, and that we may now embrace amendment 2000 with safety.

As a result of Secretary Kissinger's candid testimony before the Senate Finance Committee on December 3, 1974, however, it is now clear that we must reexamine title IV of the Trade Reform Act and its accompanying amendments. The understanding that now emerges is wholly contrary to that which was presented to us earlier. In response to probing questions by members of the Senate Finance Committee, Secretary Kissinger has given us a clearer, if not a new, picture of the negotiations that have taken

place between American and Soviet officials regarding the issue of immigration. Now we are told that no real agreement has been reached between American and Soviet officials after all. In his statement to the committee, Secretary Kissinger frankly admitted that he would not give "any assurances concerning the precise emigration rate that may result, assuming that the trade bill is passed and MFN is extended to the U.S.S.R."

This important revelation was underscored by Senator HARTKE when he asked the Secretary to explain his letter tc Senator JACKSON on page 204 of the committee report, wherein the Secretary stated—and these are the Secretary's words—that "we have been assured" that certain criteria and practices will henceforth govern emigration from the Soviet Union. "Who," asked Senator HARTKE, "is 'we'?" "'We have been assured' by whom?" In reply, Secretary Kissinger acknowledged the fact that "the Soviet leaders have not made an assurance, have not made a commitment to the Government of the United States." To be sure, Secretary Kissinger agreed with Senator HARTKE's observation that these so-called assurances are nothing more than "descriptions of Soviet domestic practice," and are not "commitments by the Soviet Government to the U.S. Government."

What is more, the testimony of Secretary Kissinger indicates that the administration is not even pursuing the general objective of section 402. Conceding the fact that section 402 applies to all citizens of all Communist countries, except Poland and Yugoslavia, which already have MFN status, Secretary Kissinger nevertheless emphasized the fact that there is nothing in the exchange of correspondence between Senator JACKSON and Secretary Kissinger which relates to immigration policies of a country such as Hungary. The total thrust of these negotiations between American and Soviet officials has been directed toward the problem of Jewish emigration from the Soviet Union, and not toward the emigration of all citizens from all Communist countries. In the words of Secretary Kissinger, "What we are attempting to achieve (is) increased Jewish emigration." The Secretary again stressed this point in his reply to Senator BYRD's expression of concern about the "freer emigration of all peoples, not just the Jews, but Ukranians, Armenians, Germans, Estonians, Latvians, Lithuanians, and other Soviet nationalities, and Volta Germans, in return for U.S. trade concessions." The Kissinger-Jackson agreement, said the Secretary, does "not specifically refer to those of the Jewish faith, but I think it is a reasonable extrapolation from the record that this was the predominant concern. There is no specific reference I believe to Jewish emigration but I think in the legislative history of this matter one would have to say that this has not been the primary focus of the conservations."

This testimony of Secretary Kissinger thus shows beyond all reasonable doubt, Mr. President, that we even lack assurances that Jewish emigration will be increased in the Soviet Union, let alone emigration of all other citizens of Communist countries. At best, Secretary Kissinger has offered us, as an article of faith, a vague hope that if we grant trade concessions to the Soviet Union, that the Soviet Union might be willing to increase Jewish emigration.

As the situation now exists, the prospects for increased emigration of all citizens and nationalities from Communist countries under the Trade Reform Act are at best dim. For reasons that are not explained by Secretary Kissinger, the administration has ignored the clear intent of section 402 and has narrowed its efforts to the problem of Jewish emigration from the Soviet Union. No understanding has been gained with regard to the emigration of all Soviet citizens. Nor has any understanding been sought or gained with any Eastern European country, or with any other Communist country, for that matter, regarding the emigration of its citizens. We seem to have turned our backs on the thousands of individuals who wish to gain their freedom and escape their Communist captors. In particular, we have closed the door on those citizens of Communist countries who wish to be reunited with their families here in the United States.

The terrible and far-reaching consequence of this oversight in the Trade Reform Act negotiations are dramatically illustrated in the case of Szabolcs Julius Mesterhazy, an American citizen who appeared before the Senate Committee on Finance on April 5 and presented a courageous and stirring statement, as Senator LONG rightly described it in his letter to Secretary Kissinger, concerning Mr. Mesterhazy's efforts to be reunited with his son, who is currently living in Hungary. Mr. Mesterhazy escaped with his family from Hungary in 1956, but was unable to bring his 12-year-old son. Since that time, the Government of Hungary has refused to permit the son to emigrate from Hungary, so that he might join his family here in Michigan. The Trade Reform Act, as interpreted by the administration, takes no acount of a tragic situation such as this—and we can be sure that there are countless other cases similar to this one.

Indeed, it was Mr. Mesterhazy himself who brought the need for this amendment to my attention. His own case and that of his son graphically illustrate the human concerns that lie behind this measure. His dedication and devotion to this cause led him, as a plain citizen, to come to Washington unaided, without any vast lobby, without resources other than his own sincerity and pertinacity to convince the Senate of the United States to help not just himself, but the relatives of oppressed people everywhere to make the American dream come true. This is really a citizen's amendment; it is not my amendment. It rises above ideological concerns and differing philosophies to unite all men of good will who abhor discrimination and oppression.

In my view, Mr. President, we would be aiding and abetting the cause of injustice and tyranny if we failed to take our stand and draft the Trade Reform Act in such a way as to extend as far as possible the hope of freedom. We have apparently made some progress toward encouraging Jewish emigration from the Soviet Union. But we are beholden to our tradition of individual freedom, to our moral conscience, and to our very own people to extend the reach of this important legislation to all citizens of Communist countries. We can do no less.

To this end, I, together with the Senator from South Carolina (Mr. THURMOND), now submit an amendment to the Trade Reform Act which assures our continued dedication to the goal of fundamental human rights and the welfare of our citizens, as contained in section 402. Specifically, this amendment provides under paragraph 1, subsection a, that no country shall receive U.S. credits, credit guarantees, or investment guarantees, that denies its citizens the right or opportunity to visit, or to join permanently through emigration, a very close relative in the United States, such as a spouse, parent, child, brother or sister. This paragraph provides further that the President of the United States shall not conclude any commercial agreement with any such country.

Paragraph 2 provides that such credits and commercial benefits shall also be denied to any country that imposes more than a nominal tax on the visas or other documents required for a visit or emigration described in the first paragraph. And paragraph 3 provides that such credits and commercial benefits shall also be denied to any country that imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of his desire to make a visit or to emigrate as described in the first paragraph. Although this amendment will not assist every individual in a Communist country to emigrate, it will at least help those who have close relatives in the United States. Moreover, it will require their freedom to emigrate, no matter where they live on our globe. In this respect, the amendment goes beyond the Jackson-Vanik amendment, which excluded Yugoslavia and Poland because they already enjoy most-favored-nation status. Thus it closes a loophole in the Trade Reform Act which allows these two countries to restrict the emigration of its citizens while at the same time receiving American credits and trade benefits.

Subsection b of the amendment provides that after the date of enactment of the Trade Reform Act, a nonmarket economy country may participate in any program of the U.S. Government which extends credits or credit guarantees or investment guarantees; that the President may conclude a commercial agreement with such a country after he has submitted to Congress a report indicating that such country is not in violation of paragraph 1, 2, or 3 of subsection a. This report shall include information as to the nature and implementation of its laws and policies and restrictions or discrimination applied to or against persons wishing to visit close relatives in the United States or to emigrate to the United States to join them. Also, the report required by this subsection shall be submitted initially, with current information, on or before June 30 and De-

cember 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.

At this point, Mr. President, I ask unanimous consent that my amendment be printed in entirety at the conclusion of my remarks in the RECORD.

There being no objection, the amendment was ordered to be printed as follows:

AMENDMENT No. 2022

On page 264, after line 18, insert the following:

SEC. 409. FREEDOM TO VISIT, AND TO EMIGRATE TO JOIN, A VERY CLOSE RELATIVE IN THE UNITED STATES

(a) To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and notwithstanding any other provision of law, on or after the date of the enactment of this Act, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to visit, or to join permanently through emigration, a very close relative in the United States, such as a spouse, parent, child, brother or sister;

(2) imposes more than a nominal tax on the visas or other documents required for a visit or emigration described in paragraph (1); or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to make a visit or to emigrate as described in paragraph (1).

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2) or (3).

(b) After the date of the enactment of this Act, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2) or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of its laws and polices and restrictions or discrimination applied to or against persons wishing to visit close relatives in the United States or to emigrate to the United States to join them. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.

On page 261, lines 2 and 6, strike out "402 (b) or 403(b)" and insert "402(b), 403(b), or 409(b)".

On page 262, line 24, strike out "402(b) or 403(b)" and insert "402(b), 403(b), or 409 (b)".

On page 263, line 17, after the period insert the following: "Clause (A) shall not apply with respect to a report submitted under section 409(b)."

On page 90, line 17, strike out "'402(b)' or '403(b)'" and insert "'402(b)', '403(b)', or '409(b)'".

AMENDMENT NOS. 2014 TO 2019

Mr. HARTKE. Mr. President, I ask unanimous consent that amendments numbered 2014, 2015, 2016, 2017, 2018, and 2019, in connection with the trade bill, which I sent to the desk yesterday, which have been printed, be considered as having been read to meet the requirements of rule XXII should cloture be invoked, or in connection with H.R. 10710, the trade bill.

Mr. President, I ask unanimous consent, also, that those amendments be printed in the RECORD at this point.

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

AMENDMENT No. 2014

On page 292, line 14, insert "(a)" before "It".

On page 292, after line 22, insert the following:

"(b)(1) The Automotive Products Trade Act of 1965 (other than title IV) is repealed.

"(2) Effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the 90th day after the date of enactment of this Act any modification of the Tariff Schedules of the United States proclaimed by the President under the authority granted by section 201 of such Act shall cease to apply.

"(3) Title IV of such Act is repealed as of the 90th day after the date of enactment of this Act.".

AMENDMENT No. 2015

SEC. 612. SENSE OF THE CONGRESS WITH RESPECT TO TRADE WITH CANADA.

It is the sense of the Congress that the United States should enter into a trade agreement with Canada which will guarantee continued stability to the economies of the United States and Canada. In order to promote such economic stability, the President may initiate negotiations for a trade agreement with Canada to establish a free trade area covering the United States and Canada. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement such a trade agreement.

SEC. 613. FOREIGN SOURCE OIL AND GAS.

(a) Section 263(c) of the Internal Revenue Code of 1954 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "Such regulations shall not apply to intangible drilling and development costs incurred in connection with oil and gas wells located outside of the United States.".

(b) Section 613 of such Code (relating to percentage depletion) is amended by—

(1) inserting after "gas wells" where it appears in subsection (b)(1)(A) the following: "located within the United States", and

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

"(e) SECTION NOT TO APPLY TO FOREIGN OIL AND GAS WELLS.—The provisions of this section do not apply with respect to any oil or gas well which is not located within the United States.".

(c) The amendments made by this section apply to taxable years beginning after December 31, 1974.

AMENDMENT No. 2016

SEC. . FOREIGN SOURCE OIL AND GAS.

(a) Section 263(c) of the Internal Revenue Code of 1954 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "Such regulations shall not apply to intangible drilling and development costs incurred in connection with oil and gas wells located outside of the United States.".

(b) Section 613 of such Code (relating to percentage depletion) is amended by—

(1) inserting after "gas wells" where it appears in subsection (b)(1)(A) the following: "located within the United States", and

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

"(e) SECTION NOT TO APPLY TO FOREIGN OIL AND GAS WELLS.—The provisions of this section do not apply with respect to any oil or gas well which is not located within the United States.".

(c) The amendments made by this section apply to taxable years beginning after December 31, 1974.

AMENDMENT No. 2017

SEC. 612. SENSE OF THE CONGRESS WITH RESPECT TO TRADE WITH CANADA.

It is the sense of the Congress that the United States should enter into a trade agreement with Canada which will guarantee continued stability to the economies of the United States and Canada. In order to promote such economic stability, the President may initiate negotiations for a trade agreement with Canada to establish a free trade area covering the United States and Canada. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement such a trade agreement.

SEC. 613. ELIMINATION OF FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL RELATED INCOME; SPECIAL RATE OF TAX FOR SUCH INCOME.

(a) ELIMINATION OF TAX CREDIT.—Section 901(e) of the Internal Revenue Code of 1954 (relating to foreign taxes on mineral income) is amended by adding at the end thereof the following:

"(3) TERMINATION OF CREDIT FOR FOREIGN TAXES ON OIL-RELATED INCOME.—

"(A) In the case of a corporation, no credit is allowed under this subpart for income, war profits, or excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign oil-related income from sources within such country or possession.

"(B) FOREIGN OIL-RELATED INCOME.—The term 'foreign oil-related income' means the taxable income derived from sources outside the United States and its possessions from—

"(i) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(ii) the processing of such minerals into their primary products,

"(iii) the transportation of such minerals or primary products,

"(iv) the distribution or sale of such minerals or primary products, or

"(v) the sale or exchange of assets used in the trade or business described in clause (i), (ii), (iii), or (iv).

"(C) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil-related income' includes—

"(i) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(ii) amounts with respect to which taxes are deemed paid under section 960(a), and

"(iii) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil-related income.

"(D) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items shall be taken into account in computing foreign oil-related income for such year.

"(E) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement). For purposes of this subparagraph, the term 'foreign oil and gas extraction income' means foreign oil-related income described in subparagraph (B)(i) and income derived from sources without the United States and its possessions from the sale or exchange of assets used in connection with the foreign oil-related income described in subparagraph (B)(i).".

(b) TAXATION OF FOREIGN OIL-RELATED INCOME.—

(1) Section 11(e) of such Code (relating to exceptions from tax imposed on corporations) is amended to read as follows:

"(e) EXCEPTIONS.—

"(1) FOREIGN OIL-RELATED INCOME.—Subsection (a) does not apply to foreign oil-related income (as defined by section 901(e)(3)(B)).

"(2) CERTAIN CORPORATIONS.—Subsection (a) does not apply to a corporation subject to a tax imposed by—

"(A) section 594 (relating to mutual savings banks conducting life insurance business),

"(B) subchapter L (section 801 and following, relating to insurance companies), or

"(C) subchapter M (section 851 and following, relating to regulated investment companies and real estate investment trusts).".

(2) Part II of subchapter A of chapter 1 of such Code (relating to tax on corporations) is amended by redesignating section 12 as 13, and by inserting after section 11 the following new section:

"SEC. 12. FOREIGN OIL-RELATED INCOME.

"(a) IN GENERAL.—There is imposed for each taxable year a tax of 24 percent on the taxable income of every corporation which is foreign oil related income (as defined in section 904(e)(3)(B)).

"(b) EXCEPTION.—Subsection (a) does not apply to any corporation described in section 11(e)(2).

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section, including, but not limited to, regulations providing that deductions, credits, and other computations properly allocable to computing foreign oil related income are properly allocated in computing such income.".

(3) The table of sections for such part is amended by striking out the item relating to section 12 and inserting in lieu thereof the following:

"Sec. 12. Foreign oil related income.
"Sec. 13. Cross references relating to tax on corporations.".

(c) The amendments made by this section apply to taxable years beginning after the date of enactment of this Act.

AMENDMENT NO. 2018

SEC. . ELIMINATION OF FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL RELATED INCOME; SPECIAL RATE OF TAX FOR SUCH INCOME

(a) ELIMINATION OF TAX CREDIT.—Section 901(e) of the Internal Revenue Code of 1954 (relating to foreign taxes on mineral income) is amended by adding at the end thereof the following:

"(3) TERMINATION OF CREDIT FOR FOREIGN TAXES ON OIL-RELATED INCOME.—

"(A) In the case of a corporation, no credit is allowed under this subpart for income, war profits, or excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign oil-related income from sources within such country or possession.

"(B) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(i) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(ii) the processing of such minerals into their primary products,

"(iii) the transportation of such minerals or primary products,

"(iv) the distribution or sale of such minerals or primary products, or

"(c) the sale or exchange of assets used in the trade or business described in clause (i), (ii), (iii), or (iv).

"(C) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil related income' includes—

"(i) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(ii) amounts with respect to which taxes are deemed paid under section 960(a), and

"(iii) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil related income.

"(D) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items shall be taken into account in computing foreign oil related income for such year.

"(E) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement). For purposes of this subparagraph, the term 'foreign oil and gas extraction income' means foreign oil related income described in subparagraph (B)(i) and income derived from sources without the United States and its possessions from the sale or exchange of assets used in connection with the foreign oil related income described in subparagraph (B)(i).".

(b) TAXATION OF FOREIGN OIL RELATED INCOME.—

(1) Section 11(e) of such Code (relating to exceptions from tax imposed on corporations) is amended to read as follows:

"(e) EXCEPTIONS.—

"(1) FOREIGN OIL RELATED INCOME.—Subsection (a) does not apply to foreign oil related income (as defined by section 901(e)(3)(B)).

"(2) CERTAIN CORPORATIONS.—Subsection (a) does not apply to a corporation subject to a tax imposed by—

"(A) section 594 (relating to mutual savings banks conducting life insurance business),

"(B) subchapter L (section 801 and following, relating to insurance companies), or

"(C) subchapter M (section 851 and following, relating to regulated investment companies and real estate investment trusts).".

(2) Part II of subchapter A of chapter 1 of such Code (relating to tax on corporations) is amended by redesignating section 12 as 13, and by inserting after section 11 the following new section:

"SEC. 12. FOREIGN OIL-RELATED INCOME.

"(a) IN GENERAL.—There is imposed for each taxable year a tax of 24 percent on the taxable income of every corporation which is foreign oil related income (as defined in section 904(e)(3)(B)).

"(b) EXCEPTION.—Subsection (a) does not apply to any corporation described in section 11(e)(2).

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section, including, but not limited to, regulations providing that deductions, credits, and other computations properly allocable to computing foreign oil related income are properly allocated in computing such income.".

(3) The table of sections for such part is amended by striking out the item relating to section 12 and inserting in lieu thereof the following:

"Sec. 12. Foreign oil related income.
"Sec. 13. Cross references relating to tax on corporations.".

(c) The amendments made by this section apply to taxable years beginning after the date of enactment of this Act.

AMENDMENT NO. 2019

On page 292, line 14, insert "(a)" before "It".

On page 292, after line 22, insert the following:

"(b) (1) The Automotive Products Trade Act of 1965 (other than title IV) is repealed.

"(2) Effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the 90th day after the date of enactment of this Act any modification of the Tariff Schedules of the United States proclaimed by the President under the authority granted by section 201 of such Act shall cease to apply.

"(3) Title IV of such Act is repealed as of the 90th day after the date of enactment of this Act.".

AMENDMENT OF THE SOLID WASTE DISPOSAL ACT—S. 3549

AMENDMENT NO. 2023

(Ordered to be printed and referred to the Committee on Public Works.)

Mr. NELSON. Mr. President, on behalf of myself and Senator HART, I submit an amendment to the Solid Waste Disposal Act, as amended by the Resource Recovery Act of 1970.

On August 19, 1974, Senator HART and I introduced a virtually identical measure in the form of an amendment to a bill which was being considered by his Environment Subcommittee. It was amendment No. 1814 to S. 1104. Since then, the hearings on the amendment have been held and it has received considerable support.

This amendment addresses itself to those highly urgent situations where a potential threat to public health exists. The point of the measure is to require, in certain kinds of lawsuits, that the party responsible for creating the potential threat must come forward and prove either that the risk of harm is negligible, or that there are considerations which outweigh the threat to public health.

The amendment is very specific and applies only in certain court proceedings:

First, its application is restricted to proceedings brought under one of the statutes administered by the Administrator of the Environmental Protection Agency.

Second, it is triggered only when a party is seeking equitable relief—for example, an injunction—but not monetary damages.

Third, the course of conduct must involve a kind of "discharging or emitting," as those words are defined in the amendment, or "manufacturing."

Fourth, the potential risk created must be real, it cannot be a negligible risk or only a theoretical possibility.

Fifth, the potential health hazard must be a very grave one: Death, serious illness or disease, or irreparable physical harm to humans.

Under these very serious circumstances, the amendment would shift the burden of proof to the party creating the grave risk to health and require that party to prove either that no threat to health exists, that the threat is negligible, or that other considerations outweigh the health threat.

In other words, this measure is aimed at those situations where some evidence of a serious potential hazard exists, but the evidence is inconclusive. The legislation would prohibit the potentially dangerous conduct until it could be proved to be safe, or until it could be shown that the benefit substantially outweighs the risk.

The need for legislation of this sort was suggested by the U.S. Court of Appeals for the Eighth Circuit in a lawsuit know as the Reserve Mining case. In that case, the United States, as well as the States of Wisconsin, Michigan, and Minnesota, and other plaintiffs, sought to enjoin the Reserve Mining Co. from dumping tailings of "taconite," a kind of low-grade iron ore, into the waters of Lake Superior. The plaintiffs charged that there was a risk of cancer to those living in the Superior-Duluth region who ingested the water from the lake.

The district judge, Judge Miles W. Lord, enjoined the company from continuing the dumping. In issuing his injunction, Judge Lord refused to "permit the present discharge until such time as it can be established that it has actually resulted in death to a statistically significant number of people. The sanctity of human life is of too great value to this court to permit such a thing," he said. Aware that "any environmental litigation must involve a balancing of economic dislocation with the environmental benefits," Judge Lord based his decision on his view that the defendants "have the engineering and economic capability to obviate the risk and chose not to do so in order to continue profitability of the present operation." He put the whole issue into a few words and said, "This court cannot honor profit over human life and, therefore, has no other choice but abate the discharge."

But the Eighth Circuit Court of Appeals disagreed and lifted the injunction. In doing so, it said that "Judge Lord apparently took the position that all uncertainties should be resolved in favor of health safety," and ruled that Judge Lord's "determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one."

In other words, that court was of the opinion that a statute was necessary to achieve the result plaintiffs then sought.

When I introduced this measure, I made it clear on the record that my sponsoring this amendment should not be seen as a tacit concession that I believed the eighth circuit was correct that such a law would be necessary before a court could rule for plaintiffs in such a case. On the contrary, under the statutes and cases which I cited in the August 19, 1974, CONGRESSIONAL RECORD, there is ample authority, I believe, to permit a court to enjoin the conduct creating a potentially serious health hazard, in cases where there is some evidence of it, but the evidence is inconclusive.

One important point should be made here. By introducing this amendment I do not intend to ask Congress to change a legislative policy while a court is in the process of deciding a lawsuit. On the contrary, I think this bill only elucidates present legislative policy and makes it unmistakably clear.

At hearings held on this amendment on August 19, 1974, it was supported by the President's Council on Environmental Quality, the Environmental Defense Fund, and the Environmental Protection Agency.

We are introducing this measure in this form today for a particular reason. That is, we hope it will be considered by the Committee on Public Works in its consideration of amendments to the Solid Waste Disposal Act. It is my understanding that this committee will be meeting to consider such legislation very soon.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 2006

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON), the Senator from Michigan (Mr. HART) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Amendment No. 2006 in the nature of a substitute for the bill (S. 3267), the Energy Emergency Standby Authority Act.

NOTICE OF HEARINGS ON TOBACCO PRICE SUPPORTS

Mr. HUDDLESTON, Mr. President, the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Committee on Agriculture and Forestry will hold hearings Wednesday, December 11, beginning at 2:30 p.m. and Thursday, December 12, beginning at 10 a.m., on H.R. 17506, to set tobacco price supports at 90 percent of parity, instead of by a formula based on the 1959 support price. The hearings will be in room 324, Russell Office Building. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Edward S. King, of New York, to be U.S. marshal for the western district of New York for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the Committee, in writing, on or before Tuesday, December 17, 1974, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

BILL SAXBE, CONSERVATIONIST

Mr. STEVENS. Mr. President, the December issue of Field and Stream magazine published a story on one of America's great sportsmen, Bill Saxbe, the Attorney General of the United States. This article lauds the Attorney General's effort to enforce antipollution laws. A conservationist since high school, Bill Saxbe has also recognized in public addresses and campaigns the vital importance of our endangered wetlands, without which we would have neither fish nor fowl.

As a means of restoring the ecology of our wetlands which are essential to supporting all life systems, Bill Saxbe, as always, is a "straight shooter" and calls for the alliance and immediate action of societal groups including government, industry, landowners, and the general public.

Mr. President, I ask unanimous consent that the article entitled, "Saxbe for the Defense," which was published in the December 1974 issue of Field and Stream be printed in the RECORD.

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

SAXBE FOR THE DEFENSE

(By Richard Starnes)

Old man Saxbe put a pair of biggish feet on his desk and stuffed a chew of Mail Pouch into his jaw.

"My reluctance to support gun control is simply the inability to control it. Crime would continue if a man had nothing to beat another guy over the head with but his truss." He had recourse to an ornate gaboon. "Crime has been with us as long as two men got together."

Those are sound sentiments, of course, and they are important to every hunter and gun fancier in the Republic, because the man who uttered them is the Attorney General of the United States.

Bill Saxbe is beyond question the most accomplished outdoorsman to occupy a seat of power in Washington since Teddy Roosevelt. He's hunted and fished all over the world, and he's an Olympic-grade trap shooter. Last summer, after a six-month layoff, Saxbe broke 98 out of 100 targets at a trap shoot they gave for him in his native Ohio.

"I missed two out of the first ten, and broke the rest of them," he told me.

Saxbe's outspoken bluntnes in a city that is owned by waffiers has gotten him into all kinds of trouble. But fortunately it hasn't broken him of the refreshing habit of saying what he thinks.

"I got a bum rap on the SST thing when I was in the Senate," he said. "Really what disturbed me was the fact that I was the only active sportsman in all of Congress. A lot of them play at it, but none of them really knows anything about it. My first job was working for the Ohio Conservation Department. My high school oration was on conservation, and I've been actively involved with it ever since."

(A lot of conservationists criticized Saxbe because he voted for the supersonic transport when he was in the Senate.)

In spite of that vote, however, Saxbe's credentials as a conservationist and outdoorsman are of a high order. This is important because the Attorney General has a great deal to say about which laws are enforced and how vigorously they are enforced. All cops and prosecutors will tell you that all laws are enforced with equal fervor, but anyone who has ever learned enough to cross the street by himself knows this is a lot of baloney. Antipollution laws and laws written in an attempt to save what little is left of our wetlands are two notable examples of laws that sometimes get sketchy enforcement. Saxbe is especially browned off by the destruction of the wetlands, as any sensible scattergun man would be. Last summer he shook up a lot of greedy s.o.b.'s when he told them, in characteristically straightforward fashion, that laws to protect the wetlands were going to be enforced. If they are, of course, it means a great many rapacious entrepreneurs of jerry-built condominiums are going to have to quit draining irreplaceable wetlands for their construction sites.

Saxbe spoke with good sense last summer in a speech to the Conference on the Protection of the Gulf Coast Wetlands at Tarpon Springs, Florida—a speech largely ignored by the daily blatts that have sat on their hands while the very land under our feet has been pillaged.

I assume that anyone with the wit to read this far into a piece as high-minded as this one knows why the wetlands are important—vitally important—to the ecology chain. When the last of the wetlands are paved over for apartment houses and retirement rookeries for lard-bottomed former stockbrokers and their blue-haired consorts, we can kiss goodby all of the waterfowl that grace this continent, and probably ultimately all of the fish as well. Wetlands are nature's nursery. When they go, so does everything else. It is that serious—and Attorney General Saxbe knows it.

As A. G., Saxbe told the conference, he has a "special opportunity" to help enforce the laws "designed to protect important but fragile links in the ecology."

"From my perspective, preservation of the wetlands will not be an easy task. Serious inroads already have been made. And if present trends continue, the wetlands will have been gravely diminished a decade from now. If we do nothing, we face the very real prospect that at some point they may practically vanish except for modest park areas.

"Whether they are saved to become a perpetual resource depends in large measure on us and our counterparts throughout the nation. A great deal depends on how effectively we inform all segments of the public and business community about the nature of the present crisis while enlisting their responsible support."

Saxbe spelled out what a few lone voices (notable among which, I am proud to say, has been Field & Stream for some seventy-nine years) have been saying.

"What is in jeopardy is not merely the scenic view of ocean frontage or lakeshore—as important as they are.

"The wetlands represent far more. They are an irreplaceable resource. And, in turn, they are part of a threatened environment in which some detect dangers not only to our way of life but to the very existence of life."

Memorize those paragraphs and yell them into the ear of the next money-grabber who tells you the economy of the nation can't survive without such greedy affronts to civilization as strip mining, or poisonous insecticides, or that monstrously evil Cross-Florida Barge Canal, or any one of a thousand other acts of rape by people who are willing to condemn future generations to death for the sake of a few lousy dollars.

Saxbe has been around enough to know he is up against tough opposition.

"No single segment of society will be able to preserve the wetlands by itself, no more than a lone segment can solve other environmental perils.

"The issues are of such magnitude that they require a joint effort—by government at all levels, by industry and landowners, and by the general public."

Now here is another paragraph to commit to memory:

"If we fail to save the wetlands, we will be losing more than an economic and aesthetic asset that can never be recreated. The loss may also signal an impending and crushing defeat in the larger effort to maintain an environment that civilized man can inhabit."

Saxbe made it plain he was not going to content himself with preaching a few pieties and then sitting down.

"My purpose is not to find fault. There is enough of that to go around and last all of us a long time. My point is that we simply have to do a better job—and I stress that I am most particularly talking about the Department of Justice doing a better job."

That was the stinger; the notice to the people Saxbe scorns as "twentieth century buccaneers" that the Federal government no longer will be a patsy and willing partner to the pillagers.

"The law requires the Army Corps of Engineers to approve any project to alter wetlands, to dredge or fill them, or to build anything on them. It falls to the Department of Justice to represent the Government in the event a court suit stems from the Corps' refusal to grant a permit for wetlands work. We also have the responsibility to bring criminal or civil actions when such work is done without a permit—and this is much too prevalent."

Two years ago, Saxbe said, there were only twenty-one cases relating to wetlands violations in the Justice Department. Last summer there were 151 cases in progress, fifty criminal and 101 civil.

The Justice Department, bleakly warned the Attorney General, "has become much more aware of its responsibilities."

"Our Land and Natural Resources Division [has] decided to make wetlands and related cases a top priority. I fully support that decision."

Saxbe made it plain he was throwing all his considerable energy into the fight.

"I am determined that all of the needed resources will be available for the Department of Justice to move swiftly and resolutely in the courts in wetlands cases. Since the bulk of this litigation falls upon the United States Attorneys, I am requesting that they give a major priority to litigation involving wetlands in every part of the country."

Where Saxbe was speaking, to be sure, is one of the world's most grisly wetlands disaster areas. Perhaps no place on earth has been despoiled with the malignant rapacity that has marked the exploitation of the Gulf Coast. The rich ecological broth that stretches from the Mexican border to the Florida Keys has been raped in a manner that must make the Creator Himself weep. Such rotten excrescences as the Houston ship channel are commonplace the length of the whole Gulf littoral. And the effrontery of the "developers"—and seldom has a word ever been so perverted—is almost past belief.

In Oregon, for example, a developer changed the course of a river without obtaining permission from the Corps of Engineers, the Environmental Protection Agency, or any other branch of government. Fortunately, the Department of Justice took this creep to court, and won its case.

In Georgia, another court ordered a free-booting real-estate developer to completely restore a salt marsh area he'd illegally filled. Another such suit is pending in Maryland. In North Carolina the Justice Department is keeping close track of another developer who has bought a large tract of wetlands. He didn't buy it to nurture waterfowl, that's certain, and Saxbe's people are keeping a sharp eye on him. Whatever is done with that particular parcel is going to be done legally.

Saxbe is a rational man, and maybe too easygoing to be a cop. Sitting in his office and talking fishing ("I think I am a pretty good fly fisherman," he told me), it is easy to see how he keeps harping on obtaining the voluntary cooperation of the enormously powerful forces that are out to eat the whole world right out from under our feet.

"We know that additional pressure for development will continue," he observed. "This is particularly true as the nation seeks new sites for power plants, for resorts, and for farming and livestock operations.

"Nuclear power plants are an important factor in the nation's future growth. But they should be located carefully to avoid damage to wetlands and marine resources."

Or, as he put it to the wetlands conference, "the clock is tolling."

"There is no time for recriminations. There is only time to try to work together to develop sensible programs that rest on twin foundations of sensible, planned growth and real conservation."

Saxbe is a gun collector of some note—"I suppose I own altogether forty guns"—and it pains him when so many cheap-shot editorialists make gun control the current most popular panacea for crime.

"I try to be practicable about it," he told me. "If I thought there was an effective way that we could have gun control, especially on handguns, I'd support it. My reluctance to support it is based on the inability to control it.

"And also on my realization, since I've been in this job, that we've had one gimmick after another that's supposed to control crime. I take the attitude there're no more rabbits in the hat; and I think that gun control is one of the rabbits they keep pulling out of the hat and saying, "Well, this would stop crime.

"Three years ago everybody said if we could control heroin we could stop crime. That didn't work either. And then we had a great influx of money—by getting enough hardware into the police departments we could stop crime. That didn't work either."

The best way to control wrongdoing, Saxbe is firmly convinced, is not to take his trapguns away from him—and mine away from me—but to punish the wrongdoer: "Catch them and put them in jail," in his words.

In a capital city where much of the currency of public disclosure is canting, dissembling, and downright lying, it is refreshing to share an hour with the likes of the Attorney General. He understands what the realities are. He is one of us, not one of them. It is good to have Saxbe for the defense.

TRADE REFORM ACT OF 1974

Mr. HUGH SCOTT. Mr. President, an editorial in yesterday's Philadelphia Inquirer makes an excellent point in favor of speedy and positive action by this body on the trade bill—namely, passage will mean many more jobs for Americans. In this time of high unemployment, this alone is reason enough to support this legislation. I ask unanimous consent that this editorial be printed in the RECORD.

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

TRADE REFORM ACT MEANS MORE JOBS FOR AMERICANS

Most of the public controversy over the Trade Reform Act has centered on the question of whether to grant most-favored-nation status to the Soviet Union. That question in turn has hinged on the Soviet Union's willingness to grant Soviet citizens who wish to emigrate, mainly but not exclusively Jewish, the right to do so.

The latter is a question of human rights, and it has been settled, not perfectly but about as well as it can be for the time being.

In an unusual exchange of letters made public in October, at the White House and with White House blessing, by Sen. Henry Jackson of Washington, Secretary of State Henry Kissinger made known Soviet assurances that emigration would increase and harassment of would-be emigrants would end.

So far as we know, the Kremlin leaders have not put anything in writing, and it remains to be seen whether they will deliver. In any case, it is now time for the U.S. Senate to deliver on the Trade Reform Act, one version of which has been passed by the House and another of which is pending for consideration on the Senate floor.

The bill, in both versions, would grant the President necessary authority to negotiate new trade arrangements in the so-called "Tokyo Round" of multilateral negotiations.

It would enable him to negotiate substantial cuts in tariffs and, equally if not more important, cuts in or elimination of non-tariff barriers, such as quotas, subsidies and tax preferences.

It would provide more relief, with less red tape, for industries and workers demonstrably injured by imports, and it would give the President power to retaliate against unfair trade practices of other nations.

The removal or at least displacment of the one obstacle, the question of Soviet emigration, brings others into the open. One is being erected by organized labor, led by the AFL–CIO. A decade ago, the AFL–CIO played a vital role in preparations for the successful "Kennedy Round" of international trade negotiations. Now it professes to believe that the gains from the "Tokyo Round" will go to the giant multilateral corporations, with the pains being borne by American workers.

This is a shortsighted view. Expanded world trade means more jobs and higher incomes, at home and abroad. As President Ford declared to supporters of the bill Tuesday evening, "We must be under no illusion that we can go it alone. ... The health of our domestic economy and the strength, the very structure, of our international relations are involved."

Another obstacle is threatened by senators who want to make a Christmas tree of the bill, dolling it up with such non-germane amendments as the controversial measure to deregulate natural gas.

To do so, President Ford warns, would be "inexcusable," and we agree. It would almost certainly doom the Trade Reform Act for this year and thus call into question America's commitment to expanding world trade, which itself is vital to solving America's own economic problems of stagflation. The Trade Reform Act should be considered on its own merits, and it should be passed.

CHARLES B. LUNN AND WENDELL B. THOMAS—DEDICATED VETERANS' ADMINISTRATION EMPLOYEES

Mr. HARTKE. Mr. President, last Sunday, on its approach to Dulles International Airport, a TWA jetliner crashed, killing all 92 persons aboard.

The airplane had originated in Indianapolis, with an intermediate stop in Columbus, Ohio. A number of people from my home State lost their lives and I want to express my deepest sympathy to all of the families.

I am particularly mindful, Mr. President, that among the victims of this disaster were two longtime employees of the Veterans' Administration: Charles E. Lunn and Wendell B. Thomas.

Mr. Lunn was the administrator of the Veterans' Administration Hospital at Marion, Ind., and Mr. Thomas was the hospital's chief financial officer.

Mr. Lunn assumed his post at Marion in January of this year, after serving as director of the VA hospital in Amarillo, Tex. Prior to that, Mr. Lunn had served the Veterans' Administration in many capacities throughout a 29-year career that began after his naval service in World War II.

Mr. Thomas had served with the Veterans' Administration for 25 years.

As chairman of the Senate Committee on Veterans' Affairs, I am keenly aware that the best of legislative intentions are left unfulfilled without the dedication and compassion of men such as Mr. Lunn and Mr. Thomas.

I know that the people of Indiana, and especially my fellow Hoosier veterans, will miss them both.

While this loss is painful for all of us who came to know and respect Mr. Lunn and Mr. Thomas for their professional dedication, it is, of course, a most poignant loss for the families involved. I want to express my special sympathy to their widows, Laura Lunn and Norma Thomas.

PRISON REFORM

Mr. BROCK. Mr. President, I recently received a letter from Prof. Karl P. Warden of Vanderbilt University School of Law in Nashville, Tenn. Mr. Warden has a genuine concern about our Nation's corrections system and has devoted considerable time at Vanderbilt to penal reform.

Under Mr. Warden's direction, Vanderbilt is developing a graduate level program to prepare attorneys to assume staff positions within penal institutions. As yet, no comparable program exists at any law school in the United States. The interdisciplinary course of study will be drawn from various departments within the university, and academics will be supported by clinical experience.

Our corrections system desperately needs to be reformed and improved, and the efforts of Professor Warden and Vanderbilt Law School promise to do just that. I ask unanimous consent that a summary of this program be printed in the RECORD.

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

PROGRAM FOR LAWYERS IN CORRECTIONS ADMINISTRATION

Only in recent years has the general legal community become cognizant of the problems that confront the correctional systems of the United States. Vanderbilt University School of Law believes that the legal community has a direct responsibility to become actively and creatively involved in the solution of these problems.

To meet this responsibility, Vanderbilt is presently developing a program in criminal justice designed to train lawyers specifically in penology and corrections administration. Essentially, the program will be aimed at the three principal needs which must be met if the corrections systems are to be successful. First, persons with legal expertise have to be prepared for and encouraged to accept staff positions with corrections departments throughout the nation. Secondly, research and data analysis, from a legal viewpoint, must be carried on in order to define rights and improve services. Finally, the legal profession must cooperate with and contribute to local, regional, and national planning groups attempting to modify existing correctional regulations and policies.

Vanderbilt University School of Law intends to implement these concepts by establishing an interdisciplinary course of study which will include, in addition to the regular law school curriculum, instruction in areas such as criminology, prison law, sociology, the role of the psychiatrist in corrections, penal administration, and community correctional services. Non-law courses will be taught by faculty members from other departments at Vanderbilt or from other schools in the University Center. This classroom work will be supplemented by clinical and internship experience within prisons and corrections departments.

Supporting this academic curriculum will be comprehensive research, information collection, and comparative corrections analysis. Because very little study of corrections from a legal perspective has been done before, a complete library and data gathering center devoted solely to corrections will be basic to this research objective. The ultimate goal will be a thorough analysis of the interdisciplinary problems relating to corrections which have been previously ignored. Vanderbilt Law School's excellent transnational legal studies program will assist in the examination of foreign corrections methods and structures.

The final intention of the project will be to join with administrators and other interested parties in working to improve the sound delivery of correctional services. A cornerstone in this effort will be demonstrating to prison policy makers that lawyers trained in corrections will be a beneficial addition to their staffs. Vanderbilt will solicit the advice, assistance, and consultation of corrections officials in the establishment and maintenance of the program.

An advisory committee consisting of members of the Vanderbilt community, certain state corrections officers, and a number of nationally recognized experts in penology will oversee the operations of the program. Professor Karl Warden, a Vanderbilt Law School faculty member with extensive experience in corrections, will be the program director. The cost of establishing the program is large, and Vanderbilt Law School is presently seeking funds from many private and public sources.

No comparable program exists at a law

school in the United States. The results of this educational effort will be to provide the nation's correctional systems with available, properly-trained attorneys to assist them in resolving the urgent legal and social problems they confront.

THE STATE OF THE NATION'S ECONOMY

Mr. McCLELLAN. Mr. President, I recently received a letter from Mr. Benjamin F. Feldman, of New York City, which I would like to share with the Members of this body. Mr. Feldman is an economist and former vice president of Kuhn, Loeb & Co., and I believe his views on the state of the Nation's economy are most informative and merit attention.

Declining public confidence in the future of our economy, rising unemployment, continued price rises at the supermarket and a sinking gross national product make it mandatory that we take *immediate* action to end the steady erosion of our way of life.

As Mr. Feldman writes:

We cannot afford to sit back, hoping that the widening and worsening economic crisis will be stopped by voluntary methods.

I believe that it is imperative that we work with all the diligence that we can command to restore the health of our economy.

I ask unanimous consent that Mr. Feldman's letter be printed in the RECORD at the conclusion of my remarks.

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

BENJAMIN F. FELDMAN,
New York, N.Y., November 21, 1974.

Re: Mandatory Controls for Prices and Wages

Hon. JOHN L. MCCLELLAN,
Senator from Arkansas,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCCLELLAN: Today's N.Y. Times reports your statement "that the time had come for Congress to make controls mandatory, rather than leaving it to the discretion of the Administration." Being convinced of the merit of your judgment (in which I concur), I am taking the liberty of presenting some pertinent data.

Public statements to the contrary, the nation's economy is already in a critical recession—critical because it is worsening almost daily.

Some adverse effects of the inflationary spiral include—

(a) strikes in key industries (as coal) which reduce operations in related industries and bring more unemployment.

(b) pricing consumer goods out of the market, evidenced in big declines in residential housing starts and car sales. (Retail cars sales in October 1974 show declines from year ago of 26.9% for American models vs. a 6.3% gain for Foreign cars).

(c) a revised budget for the fiscal year ending next June 30, from earlier estimate of $5 to $6 billion deficit to a deficit of $8 to $10 billion because the recession has pared anticipated revenues.

(d) rising business failures—for textile industry, $663 million for 1st 7 months of 1974 vs. $169 million year ago.

Thus I believe that we cannot afford to sit back, hoping that the widening and worsening economic crisis will be stopped by voluntary methods.

Cordially yours,

BENJAMIN F. FELDMAN.

FUEL SAVING MEASURES IN OCEAN TRANSPORTATION

Mr. STEVENS. Mr. President, recently George H. Hearn, Commissioner of the Federal Maritime Commission, gave a speech to the National Defense Transportation Association at its 29th annual Transportation and Logistics Forum and Exposition. The subject of Commissioner Hearn's remarks was the efforts of the Federal Maritime Commission to promote fuel saving measures in the United States ocean transportation system.

Primary among these efforts has been the Commission's support of cooperative scheduling or sailing rationalization. At meetings with representatives of foreign and U.S.-flag carriers, the Commission suggested that carriers could conserve fuel by reducing vessel speed, reducing sailing frequency, maximizing vessel space utilization, and revising sailing schedules. To the extent that any of these measures were adopted by carriers acting in concert, the Commission promised to expedite the processing and consideration of the resulting agreements. In this respect, the Commission has approved seven agreements for cooperative sailing arrangements.

Also, in an effort to promote fuel conservation the Commission has reviewed the Government's role as a shipper or user of transportation services. Primarily this concerns the movement of military cargo. The Commission's position has been that the rates for military cargo must, at a minimum, recover "fully distributed costs." Using this standard, carrier revenues will be sufficient to continue adequate service and to avoid over burdening commercial cargoes.

One problem in this area, however, relates to the bunker fuel situation. When in 1970 there was a sudden and rapid increase in the cost of fuel, carriers began to assess bunker surcharges. These charges are assessed by the carriers against all cargoes except military cargo. The reason for this being that the Military Sealift Command refuses to pay. Commissioner Hearn commented on the basic unfairness of this situation and set forth the Commission's position that the Government when acting as a shipper should bear its fair share of the cost of supporting American-flag service.

Mr. President, I am sure that Commissioner Hearn's comments will be of interest to those, such as myself, who are concerned with fuel saving measures in our ocean transportation. I ask unanimous consent that Commissioner Hearn's speech before the National Defense Transportation Association be printed in the RECORD.

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

[From the Federal Maritime Commission, Sept. 25, 1974]

FUEL SAVING MEASURES IN OCEAN TRANSPORTATION

(Remarks of Commissioner George H. Hearn)

I was delighted to receive your invitation from my dear friend, General Casey, and his Co-Chairman, Mr. Hardin, to address the 29th Annual Transportation and Logistics Forum and Exposition of the National Defense Transportation Association here in Las Vegas, Nevada.

I am particularly pleased to be participating on the same panel with Senator Howard Cannon. When I came to Washington, D.C. over thirteen years age and was employed at the Civil Aeronautics Board, I came in contact with Senator Cannon on numerous occasions in his capacity as Chairman of the Senate Commerce Committee's Subcommittee on Aviation, and developed a tremendous respect and appreciation for his aviation and overall transportation knowledge. I especially recall the launching of Astronaut Allen Shepherd's first venture into space, on which occasion Senator Cannon flew his own aircraft from Washington to Cape Canaveral. Consequently, I am delighted to participate and to revive many pleasant memories not only with Senator Cannon and the other members of our panel, particularly, Chairmen Bob Timm of the CAB and George Stafford of the ICC, but with my many other friends of the NDTA.

The topic for this session of the NDTA Forum, Transportation—Users or Abusers", raises many questions as to the efficiency of our national transportation system. Many of these issues have been presented to us by Senator Cannon in his session paper; and it is my purpose to comment on certain of the issues which pertain to the activities of the Federal Maritime Commission.

First, however, I will offer a brief description of the background of the participation of the Federal Maritime Commission in the national effort to conserve energy resources.

The authority of the Commission over transportation extends to the international and domestic offshore oceanborne commerce of the United States. The great majority of our country's imports and exports move by ocean carrier, making the ocean transportation industry a vital part of the overall commerce of the nation. Thus, when the oil shortage first arose, the Commission took the position that sufficient bunker fuel must be allocated to both foreign and U.S.-flag vessels in order that our waterborne commerce continue to flow freely and not be jeopardized.

While much of our country's imports and exports are carried by foreign-flag carriers and we were concerned that they receive adequate fuel, we were even more concerned over the fuel allocation for U.S.-flag vessels. Under the various U.S. cargo control laws, all military cargo and fifty percent of other government generated cargo must be carried by U.S.-flag carriers. Thus, as a matter of national security, the Commission considered it vital that fair and adequate fuel allocations were made to ocean flag carriers—foreign and domestic.

The Commission worked closely with the Federal Energy Office in the promulgation and administration of fuel allocation regulations. We continually stressed the need for a 100 percent allocation of fuel for both carriers and related shoreside services, and, in addition, the need for reciprocity among nations in the allocation of bunker fuels.

Some of these matters are of less immediate concern today than during the initial "energy crisis". Nevertheless, we must not consider that our energy problems have disappeared. Our energy needs are increasing and the supplies are becoming depleted and more expensive. Consequently, rationalization of the use of our fuel supplies and international cooperation are more important than ever.

Two regulatory issues concerning fuel conservation in transportation which I will comment on are the use of cooperative scheduling (or sailing rationalization), and the government as a user of transportation.

Under the Shipping Act of 1916 and other shipping statutes, the Commission has authority to act in many areas of our oceanborne commerce. However, two sections of the 1916 Act are of particular importance in

the matter of energy conservation. One is Section 15. It provides that when ocean carriers enter into agreements of Shipping Act concern, those agreements must be filed with the Commission for approval. Thus, carriers acting in concert in shipping matters can do so only pursuant to an approved agreement.

The other statutory provision is Section 18 which requires the filing with the Commission of carrier tariffs showing all rates and charges. This section also authorizes the Commission to disapprove rates upon a finding of their unreasonableness.

In view of the authority of the Federal Maritime Commission under these and other statutory provisions, the Commission undertook an effort late last year to encourage fuel saving measures in ocean transportation. Meetings were held with representatives of foreign and U.S.-flag carriers and means of lowering fuel consumption were discussed. It was suggested by the Commission that the carriers could conserve fuel by reducing vessel speed, reducing sailing frequency, maximizing vessel space utilization and revising sailing schedules.

Of course, under Section 15 of the Shipping Act, to the extent any of these measures were adopted by carriers acting in concert, the Commission would have to give its approval. The carriers were advised, however, that any such energy conservation agreements would receive expedited processing and consideration by the Commission.

In this respect the Commission has approved seven agreements specifically relating to the fuel problem, three in foreign commerce and four in the domestic offshore trades. For example, in the trade between Alaska and the "lower 48" states, two carriers agreed that one carrier would eliminate sailings and place its cargo on another's vessels. Also, two carriers serving between the U.S. and South America agreed to rationalize their sailings in order to conserve fuel. The other approved agreements to cover sailing rationalization and other fuel saving measures as the parties might adopt pursuant to approved discussions.

It should not be concluded, however, that those are the only approved sailing rationalization agreements or that the Commission approved such agreements only in response to the fuel crisis. The fact is that the Federal Maritime Commission has not restricted its use of authority under Section 15 to approve agreements for cooperative sailing arrangements. There are no regulatory restraints under the Shipping Act which militate against the use of sailing rationalization. If an agreement meets the requirements of approval under this Section and is generally not detrimental to the commerce of the United States or contrary to the public interest, it is approvable by the Commission.

The Federal Maritime Commission favors the use of properly controlled sailing arrangements and other agreements when the situation warrants. Thus the use of sailing rationalization has not been inhibited but has been accepted whether fuel conservation has been the primary or ancillary purpose.

Generally, sailing arrangements are sought by carriers in trades where the level of trade will not support full sailing schedules by all carriers offering service. Thus to make service on the trade route economically worthwhile, the carriers agree to rationalize sailings. It might be questioned why, perhaps, one carrier should not cease serving the trade if there is not enough business. The answer is that there can be many factors requiring the continued service of all carriers in the trade.

One factor is that a carrier might be owned or controlled by a country at either end of the trade route, and that country might insist upon participation of its carrier. This has occurred frequently in the case of the developing nations; and in those cases, sailing agreements sometimes form a part of pooling agreements or arrangements giving carriers equal access to government controlled cargo. Such agreements not only protect the individual national interests but also establish restraint which rationalize the activities of participating carriers.

Further, in some countries certain cargo is reserved by the government for carriage by flag carriers of that country. This is done for a variety of reasons including national security, promotion of national industries and desire for international prestige. Consequently, because we must accept a certain quantity of service in some trades, sailing rationalization is one method of keeping it within acceptable limits.

Another factor supporting continued trade route participation could be that a carrier might serve one trade route as part of a more extensive service. It would be necessary that the carrier preserve each portion of the service, possibly through sailing agreements, in order to maintain the whole.

It can be seen, therefore, that sailing rationalization agreements play an important role in international ocean commerce; and the Federal Maritime Commission does not exercise or impose any restraints on their use. Nevertheless the Commission is required by its statutory mandate to maintain, and it does maintain regulatory surveillance over all approved agreements. This ensures that the parties do not exceed the approved terms of the agreement and that it continues to be in the public interest. Presently there are twenty sailing agreements in the foreign trades. Agreements of this or any type are infrequent in the domestic offshore trades due to the exclusion of foreign-flag competition; but even there, as I have already mentioned, sailing agreements are in effect and under consideration.

With respect to the Commission's authority under Section 18, dealing with tariffs and rate levels, the Commission has been greatly concerned over carrier rate increases caused by the rise in bunker fuel costs. When the cost of bunker fuel increased drastically it became necessary for carriers to pass on to shippers most of the increase in order to continue offering service. The Commission recognized this need and permitted the carriers to impose bunker fuel surcharges in almost all trades. Nevertheless, the Commission allowed the surcharges only after the carriers presented documentation establishing the reasonableness of the level of the charges. Since the initial imposition of the surcharges the Commission has constantly reviewed them to insure that they be reduced or removed when possible. And, in fact, as the cost of fuel has receded in certain areas, some carriers have reduced their bunker fuel surcharges.

The second issue which I will comment on concerning fuel conservation in transportation is the role of government as shipper or user of transportation services. It has been contended that the competitive bidding system for government shipments produces low rates which result in reduced transportation efficiency.

Competitive bidding is the system now employed for the carriage of U.S. military cargo. Because this cargo is high in volume and must be carried by U.S.-flag vessels, it is a very important cargo to our ship operators. The competitive bidding system was introduced in 1966 and was immediately challenged in a proceeding at the Federal Maritime Commission. The Commission concluded that competitive bidding did not constitute an unfair or unjust system and did not violate the Shipping Act.

After that time the Commission became increasingly concerned with the drastic downward trend of rates bid by our ship operators for the carriage of military cargo. It is readily apparent that military rates which fall so low as to impair the financial stability and operating efficiency of our merchant fleet are detrimental to the commerce of the United States.

Consequently, in 1972 the Commission began and completed a proceeding which sought a remedy to the deteriorating military rate situation. The proceeding was for the purpose of establishing rules setting forth criteria for determining the level of military rates below which rates would be considered detrimental to the commerce of the United States.

The basis of the Commission's decision in adopting final rules and criteria was that "U.S.-flag operators should not be required to do business with the Federal Government at a loss". Further, the transportation of military cargo should not be subsidized by commercial cargo. Such a situation creates inefficiency in vessel use, and jeopardizes the carriers' ability to obtain adequate use of equipment.

Consequently, the Commission concluded that the rates for military cargo must, at minimum, recover "fully distributed costs". That means all direct and indirect costs plus depreciation and interest. In this way carrier revenues will be sufficient to continue adequate service and to avoid overburdening commercial cargoes.

In initiating its rulemaking proceeding the Commission was responding not only to its statutory responsibility of assuring that rates in our foreign commerce do not fall so low as to be detrimental to our commerce. The Commission was also taking into consideration a report entitled Sealift Procurement and National Security Study—or SPANS. The SPANS study in which the Commission participated with other government agencies and industry representatives, acknowledged the adverse impact of noncompensatory military rates on the viability of the American merchant marine.

The final Commission conclusion requiring military cargo rates to recoup all of the carrier's applicable costs is thus consistent with the mandates of the Shipping Act and the objectives to the SPANS study.

In the same year—1972—as the Commission issued those rules, another case arose regarding military rates which more specifically relates to the bunker fuel situation. When in 1970 there was a sudden and rapid increase in the cost of fuel, carriers began to assess bunker surcharges. These charges, however, were assessed by the carriers against all cargoes except military cargo.

The facts were that the military cargo moved in the same vessels at the same time as other cargoes. It seemed to the Commission, therefore, that there was some basic unfairness in that situation possibly involving violations of the Shipping Act.

The carriers defended against the Commission's charges by stating that any assessment of the surcharge against military cargo was futile because the shipper—Military Sealift Command—had refused to pay. The Commission concluded that some carriers had not pressed their case against MSC for payment and were therefore in violation of the Shipping Act for discriminating against the non-military cargo shippers.

The carriers contended from the outset that the fault really was with MSC for refusing to pay the surcharge. And under Section 16 of the Shipping Act, a shipper may be subject to Federal Maritime Commission authority. There was, however, no allegation that MSC had offended that section, and there was thus no basis for Commission action against the shipper.

Although the carriers have since taken all possible action to enable them to collect the surcharge against military cargo, no satisfactory result has been achieved. Consequently the basic unfairness of the situation remains even though the carriers are now blameless, having purged themselves by pursuing their case against MSC.

It seems from this situation that although the Federal Maritime Commission has issued a rule stating criteria for the level of military cargo rates, the carriers may be unable to adhere to that principle. Carriers are required to offer military rates no lower than the costs of carriage, and high bunker fuel expenses should be considered such a cost even though they arose unexpectedly and rapidly.

An accommodation of interests here is clearly required. Admittedly it is good practice for the government to seek to keep its budget low. Yet this should not be done at any expense. A vital American merchant fleet is important not only to our industrial and commercial wellbeing, but also to our national security. Thus the government when acting as a shipper should bear its fair share of the cost of supporting American-flag service.

One other matter in respect to government cargoes is worth brief mention here. That involves Section 6 of the Intercoastal Shipping Act of 1933. This provision permits the carriage of government cargo in U.S. domestic offshore ocean commerce free or at reduced rates. The Federal Maritime Commission favors repeal of this provision and supports bills in the Senate and House of Representatives to accomplish this. Section 6 was originally designed to enable intercoastal water carriers to compete with the railroads. The statute was later expanded to include carriers serving offshore commerce—such as Hawaii and Puerto Rico. Still later the statute was again amended and intercoastal carriers were placed under the Interstate Commerce Act. Consequently, the original purpose of the statute has disappeared, but the American carriers serving the domestic offshore trades are stuck with Section 6 and the possibility of having to offer low rates or free service to government shippers.

I have already discussed the inequities of permitting government rates to fall to unreasonable levels. And those remarks fit equally well here. Admittedly, if Section 6 is repealed and if the Commission's rules on the level of military rates are observed, government costs will increase. But that cost will fall, equitably, on all taxpayers instead of on those businesses who now ship commercial cargo more expensively in the same ships that carry government cargo.

Ratemaking policy, generally, is a factor in transportation efficiency, and also in efficient fuel utilization. The jurisdiction of the Federal Maritime Commission in this area is limited.

In foreign commerce the Commission has no ratemaking authority. The Commission's jurisdiction is limited to investigating rates to determine whether they are so unreasonably high or low as to be detrimental to the commerce of the United States. Within this scope of authority the Commission can, however, require carriers to submit justification for rates; and it has done so, particularly with respect to surcharges such as those imposed to recover bunker fuel costs, and also with respect to inbound/outbound freight rate disparities.

In the domestic offshore trades the Commission's authority over rates extends further. Those rates can be suspended by the Commission, which can then order the reasonable rates to be enforced.

To accomplish this, the Commission requires carriers to report their financial data for use in analyzing rates. It is the view of some that the Commission's current system for evaluating carrier costs is not suited to modern transportation technology involving containerization, roll-on/roll-off, and other unitized cargo movements.

There are now pending before the Commission cases involving this question and I may not comment on them. It may be said, however, that ratemaking policies should be flexible enough to take account of the various modern trends in cargo transportation, both in the domestic offshore and foreign commerce. In this way relatively outdated or inefficient transport systems will not be able to forestall the advantages offered by new ideas and technologies. At the same time, certain general guidelines or criteria should be available to enable carriers to properly formulate their ratemaking policies and enable the Commission to evaluate them. Such a formula will hopefully emerge from current Commission considerations.

Industry and government are not, however, the only parties responsible for supporting modern and efficient transportation technologies. All participants in the merchant marine industry should lend their assistance. It has been said, for example, that labor, while doing much to aid transport efficiency, has also been a hindrance in some areas. The Federal Maritime Commission has limited jurisdiction in labor related matters, but one labor related issue warrants comment here.

Longshoremen have developed rules on container movements which require the unloading and reloading of containers originating within 50 miles of the port. It is claimed that this is necessary to preserve work opportunities for the longshoremen whose work is vital to the ocean commerce of the United States. On the other side, it is said that the activities of the longshoremen hinder the efficiencies offered by containerization. There is presently a case pending at the Commission on this subject and I may not comment further. Yet I may state our goal that a mutually beneficial solution must be reached at the Commission and in the cases pending also in court and at the National Labor Relations Board.

In these comments I have tried to indicate the attitude of the Federal Maritime Commission and its activities as encouraging transportation efficiency and, consequently, efficient fuel utilization. Hopefully, within the Commission's statutory authority and in cooperation with the maritime industry and other agencies we will be able to further the goal of fuel conservation through the development of increasingly efficient transportation systems.

AUTO REPAIR

Mr. HARTKE. Mr. President, our society has developed a procedure to assure the public of competent service in such critical areas as medicine, law, and accounting. Most jurisdictions also license barber and beauty shops, as well as restaurants. Licensing is a means by which the public can be assured of the competence of the service being rendered.

The same assurance is needed in the field of auto repair. Billions of dollars are wasted each year on fraudulent or shoddy repair work. Not only does this represent a needless waste of money, it also results in unsafe cars on the road.

I have introduced the Motor Vehicle Repair Industry Licensing Act (S. 1950) in an effort to provide for the licensing of motor vehicle repair shops. Its enactment will save the public money, provide an added measure of assurance that work is done competently, and improve the roadworthiness of automobiles.

Mr. President, I ask unanimous consent that the text of an editorial on this subject which appeared in the Sacramento Bee on October 5 be printed in the RECORD.

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

THE NEED TO LICENSE AUTO MECHANICS

The carnage on our highways, in so many instances caused by automobile mechanical failure, puts grave emphasis on the need to assure that the mechanics who repair cars are fully competent and held to account for mistakes.

Government has a compelling obligation to weed out inefficient mechanics, not only the ones who overcharge and bilk their customers but often turn out unsafe work leading to accidents on the road.

The situation is of special importance in view of the fact estimates put the number of mechanics in the nation at 100,000, while there are 100 million or more cars. Not only are there insufficient numbers of mechanics, but all too many of them, as numerous surveys indicate, do not really know their trade.

Earlier this year, in an effort to do something about the problem, U.S. Sen. Vance Hartke, D–Ind., introduced the Motor Vehicle Repair Industry Licensing Act. Its aim is to encourage all the states to adopt a system for licensing auto repair shops and damage appraisers. So far, the measure has languished in the Senate Commerce Committee. Hearings are not expected until some time next year.

California has made some progress in this field, but it is not enough. The state has created the Bureau of Automotive Repair, which licenses garage owners but does not set up performance standards and competency tests for mechanics themselves. While in theory a garage owner is supposed to weed out his incompetent mechanics, this can prove difficult, both because of their scarcity and because the garage owner rarely knows whether a subsequent accident involving a vehicle repaired by his mechanic was the result of the mechanic's incompetence.

What is needed throughout the country is a system of scrutinizing the proficiency of individual mechanics through some kind of licensing procedure.

It should be stressed that none of the foregoing is meant to impugn the competence and integrity of the great majority of individual mechanics. But there remain too many incompetents in the field and it is an obligation of government to establish licensing procedures for their critically important work, as is done for medical doctors, accountants, lawyers and the like.

B'NAI B'RITH STATEMENT ON DISCRIMINATION AGAINST THE AMERICAN INDIAN

Mr. ABOUREZK. Mr. President, I am happy to insert into the CONGRESSIONAL RECORD a resolution adopted by the B'nai B'rith Anti-Defamation League in November on the subject of discrimination against the American Indian. Over the years the Anti-Defamation League has worked to end racism directed toward Jews, and the results have been both highly successful and beneficial.

It is my hope that the Anti-Defamation League will not limit itself only to ending discrimination against Jews, Blacks and American Indians, but will lend its considerable influence toward ending racist stereotyping of Arabs as well.

The unfortunate anti-Arab propaganda which stereotypes Arabs as either dirty, greasy, barbaric, terrorist, or spendthrift is as painful to the recipients as the stereotyping of Jews as only moneylenders, or in control of the media in the United States. It is also unfortunate that on one or two occasions within

the last year, the Anti-Defamation League has even lent itself to this kind of stereotyping in anti-Arab advertisements the league has sponsored in daily newspapers in the United States.

The original thesis of the Anti-Defamation League was that such discrimination can happen to everyone, if it is allowed to happen to anyone. I would hope that such civilized thinking would continue, especially with regard to Arab Americans and Arabs in the Middle East as well.

I ask unanimous consent that this resolution be printed in the RECORD.

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

DISCRIMINATION AGAINST THE AMERICAN INDIAN

American Indians suffer from severe handicaps in education, housing, employment, nutrition, health care and other aspects of life. Their situation, in its bitterness and misery, is among that of the most severely deprived other minorty groups. Today's conditions result from the discrimination visited upon the Indians ever since Europeans first came to the shores of North America.

Precisely because the Indians' problems are rooted in discrimination, they are the concern of the Anti-Defamation League of B'nai B'rith.

Further, Indians are victims of a widely held derogatory stereotyping akin to that directed against Jews, blacks and other minorities. We therefore urge that changes be made in the content of educational materials and in the treatment of Indians by the mass media, to correct these false and defamatory images. The government should take a more active role in changing the climate of opinion regarding the status and position of the American Indian, to eliminate the misinformation and prejudice that has held back Indian progress.

Furthermore, federal and state governments must expand and intensify their programs to stimulate opportunities for Indians to improve their educational and employment opportunities and living conditions.

The Anti-Defamation League of B'nai B'rith calls for the establishment of affirmative action programs in each of these areas to hasten the day when such deprivation can be eliminated.

THE TIME HAS COME TO END FAIR TRADE PRACTICES

Mr. BROOKE. Mr. President, on Tuesday, December 3, I introduced S. 4203, a bill designed to save America's consumers over $2 billion annually by repealing resale price maintenance laws.

I was particularly pleased, then, to read in the December 1, 1974, issue of Forbes magazine an article entitled, "Fair Trade: How Fair?" The subtitle of the article is even more revealing:

It seems a real anachronism in the midst of a struggle against inflation.

Thus, Forbes magazine joins Consumers Reports and many others in voicing their belief that the time has come to end fair trade practices. I can think of few actions within our power to take that would have a greater and more immediate effect on reducing inflation than prompt passage of S. 4203.

I commend Forbes magazine for their thoughtful presentation and ask unanimous consent that this article be printed in the RECORD.

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

FAIR TRADE: HOW FAIR?

IT SEEMS A REAL ANACHRONISM IN THE MIDST OF A STRUGGLE AGAINST INFLATION

The manager of a Washington, D.C. discount chain puts it bluntly: "Fair trade really screws the public; it's probably the most deceptive thing any manufacturer can put across." He says the laws force retailers to charge inflated minimum prices for a wide number of brand-name items such as Magnavox and Sony.

But now double-digit inflation and recession are helping to convince a lot of important people that any laws tending to keep prices high must go.

"Whatever feeble justification may have once existed for fair trade, there is today no reason to place such heavy burdens on the consuming public." That's not just another discounter talking. That's Attorney General William Saxbe. In a little-publicized speech to grocery manufacturers several weeks ago, he urged Congress to repeal the federal authorization for state fair trade laws.

Fair trade proponents dismiss Saxbe's speech as a "trial balloon." They are trying very hard to shoot it down. Businessmen are split on the issue, while consumer groups and a number of influential congressmen are out to bury fair trade once and for all.

VOICE FROM THE PAST

Marketing strategies built around insuring a minimum product price have a long history. The Supreme Court banned the practice in a landmark case decided in 1911 involving Dr. Miles proprietary medicines. But during the Depression, retail druggists began plumping for protection to avoid price wars. California passed the first law authorizing retail price maintenance—by then dubbed "fair trade"—in 1931. Forty-four states quickly followed. When federal antitrust problems developed in the late Thirties, Congress enacted two specific exceptions to protect the state plans. By the early Fifties, prescription medicines, toothpaste, appliances—in short, nearly all consumer products—were fair traded.

But the laws slowly lost their clout until now perhaps just 20 big companies use fair trade to any significant extent. For example, the only drugstore items with minimum prices are cosmetics like Revlon and Max Factor lines. Other examples include Anco wiper blades, Corning glass, Rubbermaid household products and Simmons mattresses.

By now, nine states have already eliminated fair trade. Only 14 states—but those with 46% of the nation's retail sales—have the type of strict law that can be enforced against sellers whether they agree to comply or not. In the 22 states, the statutes apply only to retailers who sign direct price-maintenance agreements with their suppliers. Most big discounters like Kresge and Woolworth have policies of refusing to sign fair trade agreements. The manufacturer, of course, can refuse to supply retailers who thumb their noses at fair trade. But Joel Tumarkin, an economist at Peoples Drug Stores, notes: "In the kind of competitive economy we've got, it's almost impossible for a company to cut a guy off."

You might ask: Why would a manufacturer want retailers to keep the selling prices of his products high? Isn't maximum volume what he wants? Not necessarily. Conrad Stemski, vice president of Corning Glass, argues that the higher margins from fair trade laws encourage retailers to sell a lot of an item, which, in turn, allows manufacturers to build cost-cutting mass production.

Black & Decker's Director of Public Affairs Henry Michel says the repeal of fair trade would really hurt: "Because of the lower margins, the number of retailers handling our products would go down and the others wouldn't carry as broad a line." The result: lower sales and higher production costs. A paradox, that: The higher the price, the greater the volume.

Michel points to B&D's battery-powered grass shear. Introduced in 1972 at $19.99, it now fair trades at $14.99. Michel contends that without fair trade, the grass shear might still be selling at $19.99.

In addition, some legal scholars like Solicitor General Robert Bork, who supported fair trade while teaching law at Yale, defend the manufacturer's price maintenance as a valid means of compensating retailers for extra sales efforts.

However, changing marketing methods may make that justification somewhat obsolete. "Sure it's fine for a manufacturer to pay a retailer for helping him," says University of Chicago law professor Edmund Kitch, "but with the shift to presold products, the retailer doesn't do much recommending anymore."

In the same vein, another argument about holding prices high to protect small retailers also seems to have little economic validity. "The little guys thought fair trade would keep them alive," says Ronald Bloch, a Federal Trade Commission attorney. "They got it, and they still died."

Fair trade, in fact, may be responsible for at least one bane of the small merchant—private-label merchandise. "Sears can't sell Black & Decker, so they make their own," explains Bloch.

Despite the Attorney General's speech, President Ford still has not made eliminating fair trade a part of his anti-inflation program. That has encouraged men like Arthur Berndtson, a Washington lawyer hired by fair trade proponents, to dismiss the Saxbe speech out of hand. "Price maintenance has a tremendous backing in this country," says Berndtson. "Without it, consumers will have fewer alternatives, and discounters will squeeze the quality out of our products."

Isn't it interesting how people who profess to believe in unfettered free enterprise can come down on the side of government regulation when it suits their interests?

THE ECONOMY—WHERE ARE WE HEADED?

Mr. SYMINGTON. Mr. President, in the press this morning is an understanding observation by one of America's outstanding private citizens. Mr. Henry Ford II asserted:

I'm not saying that the United States is heading for unavoidable disaster. But I am saying that we are not doing what we need to do to avoid potential disaster. Washington must take steps that will persuade the people that the nation still has control of its fate and is not drifting helplessly into deeper and deeper trouble.

In the New York Times this morning there is an article by Tom Wicker, "This Is an Arms Limitation?"

When one coordinates these two as I see it, they just sum up much of the problem we face in this country today.

I ask unanimous consent that the article by Mr. Wicker be printed in the RECORD at this point:

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

THIS IS AN ARMS LIMITATION?

(By Tom Wicker)

As citizen and taxpayer, do you ever get the feeling that you are being doubletalked?

Take, for example, Secretary of State Henry Kissinger's "breakthrough" at Vladivostok on behalf of arms "limitation."

This "breakthrough" was hailed by Secretary of Defense James Schlesinger—not generally thought of as a fan of Secretary Kissinger—as "a major step forward." Then he went on to describe it as a major step forward, not in arms limitation, but in arms expansion.

To put the agreement in effect, Mr. Schlesinger said, would require on the American side larger strategic forces than had been previously planned even by the Pentagon, plus a major "restructuring" of American strategic forces away from land-based missiles toward submarine-based missiles and manned bombers.

When bureaucrats talk about "restructuring" something, hapless taxpayers may be quite sure they do not mean to make it smaller, or less expensive; and to do Mr. Schlesinger credit, he was specific. He said that "restructuring" American strategic forces to fit the arms "limitation" agreement proposed at Vladivostok probably would require the following:

Two more Trident missile submarines than the ten now planned; ten Poseidon missile submarines kept in operation longer than now planned; building and deploying a new strategic bomber; building and deploying a larger intercontinental ballistic missile than the United States now has (even while depending less on land-based missiles).

This is arms "limitation"?

Mr. Schlesinger conceded that he wished to achieve lower levels of weapons than those contemplated by the Vladivostok "breakthrough," but suggested that such an agreement probably could not have been reached in view of the "quite firm" position taken by the Soviet Union.

This is "a major step forward," nevertheless?

Well, according to Secretary Kissinger, it certainly is. He said nothing about a "quite firm" Soviet position; rather, in his view, the Soviets made "very major concessions" at Vladivostok, which it would be churlish of Americans to reject, particularly since rejection would lead the Soviets to conclude "only that political détente with us faces domestic difficulties of an insuperable nature."

That sounds like a first-strike remark but on investigation looks more like deterrence. When, for instance, Senator Henry M. Jackson and others held up Mr. Kissinger's promise of improved trade relations with the Soviet Union for two years, the result was not a breakdown in détente but a compromise that facilitated the emigration of Soviet Jews—which was the point of the hold-up.

But Mr. Kissinger did not stop with this threat. If Congress failed to approve the Vladivostok proposals, he said Congress should be ready to provide $5 or $10 billion for strategic arms costs in a new arms race. That would be something like double the present strategic arms budget of $8 billion a year.

But what, then, was Secretary Schlesinger talking about? A new Trident submarine costs about $1 billion, if prices rise no further, so the two Mr. Schlesinger said would be required in "restructuring" under the Vladivostok proposals would cost $2 billion. A new fleet of 240 B–1 bombers would cost $18 billion, and although Mr. Schlesinger did not commit himself to that plane, it is difficult to imagine any other costing much less. Add the costs of a new land-based intercontinental missile (perhaps called "The Henry"), plus the additional MIRV warheads the United States would be permitted to deploy, and—at least in dollar terms—it might be cheaper to have an old-fashioned arms race.

Senator Jackson nevertheless may have been over-optimistic when he declared in a television interview that the United States had "the chips" to force the Soviets "by hard bargaining" into a better agreement. It may well be that to get the Soviets to agree to any limitation at all on strategic arms, Mr. Kissinger and President Ford had to agree to higher arms levels on both sides.

The fact seems to be that an arms expansion, at enormous cost, has been tentatively agreed upon by Moscow and Washington. That expansion may or may not be less than would have occurred in the absence of the agreement; and both sides may or may not now feel themselves able to rely in the size of the other's strategic forces until 1985.

It may well be that no other kind of arms "limitation" is now possible, so that the proposed Vladivostok agreement is better than none. If so, however, to call what was achieved a "breakthrough" or even a "major step forward," much less a "triumph"—particularly since even this limited arrangement has not yet been approved by either side—is hyperbole at best. At worst, it is the kind of political and diplomatic doubletalk which, from Vietnam to Watergate, has made the American people so cynical about their Government.

THE REGULATORY ETHIC: AN INFORMED CRITICISM

Mr. BUCKLEY. Mr. President, I have spoken in the past about what I refer to as the "new regulatory ethic." By that I mean the viewpoint of those who demand that the Federal Government regulate almost every conceivable economic and social activity—all in the name of the public interest. I was therefore pleased to come across a speech given by Lewis A. Engman, Chairman, Federal Trade Commission, in which he discussed with candor and expert knowledge some of the drawbacks of overregulation. Mr. President, I consider this speech to be a most important contribution to the continuing debate over the direction of our economy, and ask unanimous consent that the full text of the speech be printed in the RECORD.

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

ADDRESS BY LEWIS A. ENGMAN BEFORE THE 1974 FALL CONFERENCE OF THE FINANCIAL ANALYSTS FEDERATION, OCTOBER 7, 1974

I imagine many of you followed with the same interest I did the summit and pre-summit economic conferences last month.

Probably you were not surprised at the fact that inflation—or perhaps, to put it more accurately, "stagflation"—was widely agreed to be the country's number one problem.

You should not have been surprised either that there was little agreement on how to deal with it. You get that many economists, businessmen and labor leaders together and you will be lucky if you can get them to agree on where to go to lunch.

Can you imagine acting as moderator for that group? I can think of less frustrating jobs. Like being the construction foreman on the Tower of Babel, for instance.

I don't want to be unfair to the summits. Although gatherings like that do not exactly produce an ideal decisionmaking environment, I believe it was worthwhile to get everyone's views out on the table. It also demonstrated that the present inflation is not a problem susceptible to a quick or easy "fix".

As for getting a consensus from that many independent minded people on a subject as complex as how to stop inflation, I suspect that anything resembling agreement would be most likely to be a sort of eclectic anthology of economic wisdom, and I'm not at all sure that is a good idea.

If we are going to make it up the long haul ahead of us, it is more assuredly not going to be in an economic policy vehicle that has John Kenneth Galbraith's engine block, Otto Eckstein's clutch, Dick Gerstenberg's drive shaft and Leonard Woodcook's transmission.

That kind of compromise approach reminds me of the husband and wife, one of whom wanted to paint the house red, and the other blue. Since neither would settle for the other's color, they mixed the two paints together and got purple, which was ugly but okay because neither one of them liked it.

In economic planning as in painting, the only thing to be said for that approach is that it is equitable.

Certainly there is no shortage of suggestions for how to deal with inflation.

On the front shelf is the traditional medicine, prescribed since time immemorial for the symptom of uppity prices: tight money and a balanced budget. There are those who doubt the effectiveness of this old cure in a cost-push world, but its proponents still outnumber its deractors.

In addition, there are some, myself among them, who also believe that inflation can be reduced by purging the economy of anti-competitive behavior. The FTC and the Justice Department's Antitrust Division are both looking with especial care for the types of trade restraints, collusion and unfair marketing practices which reduce competition and lead to higher prices for consumers.

Some have suggested that import duties and quotas be lifted to permit entry of more lower priced foreign goods.

Others cast their vote for the reimposition of controls or, at least, for some form of guidelines.

But the suggestion enjoying perhaps the greatest vogue at the moment is that inflation can be curbed by reducing the government's involvement in the economy; more specifically, by reducing its regulatory role.

It is not just the survival-of-the-fittest, every-man-for-himself free-marketeers who make this suggestion. It has the support of many people generally viewed as liberal and interventionist in their approach to the economy.

It has received the blessing of Ralph Nader.

And it is about to be endorsed by Lew Engman.

And here's the reason. Though most government regulation was enacted under the guise of protecting the consumer from abuse, much of today's regulatory machinery does little more than shelter producers from the normal competitive consequences of lassitude and inefficiency. In some cases, the world has changed reducing the original threat of abuse. In other cases, the regulatory machinery has simply become perverted. In still other cases, the machinery was a mistake from the start. In any case, the consumer, for whatever presumed abuse he is being spared, is paying plenty in the form of government-sanctioned price fixing.

Take the airline industry for instance. Under the Federal Aviation Act, the Civil Aeronautics Board controls the entry of new carriers to the market, controls the distribution of routes and has the power to disapprove or modify an airline's rule change proposal after hearing complaints from the so-called competition.

The result is that in the areas of rates

and routes for all intents and purposes there is no competition at all. Competition, where is exists, is concentrated on the one unregulated aspect of airline activity, customer service. That is why the average airline commercial looks like an ad for a combination bawdy house and dinner theatre.

This may lead to some pleasing amenities. But it puts the customer in the position of captive buyer. Nobody asks him if he would rather have the money than the movie, or if he would like to brown bag it from New York to California instead of having the steamship round of beef au jus on the little plastic plate. He is just asked to pay up.

If you have any doubt that one consequence of the CAB's control over rates and routes is higher prices, you need only look at what happened some years ago in California when Pacific Southwest Airlines, an intrastate carrier not subject to CAB rate regulation or entry restrictions, entered the San Francisco/Los Angeles market with rates less than half those being charged by the interstate CAB certified carriers TWA, Western and United. What happened? After attempting to ignore PSA's lower fares, the CAB carriers were forced to cut their rates to meet the competition. Even today, to fly from L.A. to San Francisco it costs only about half as much on a per-mile basis as it costs to fly from Washington to New York.

Of course, it is true that a major airline will try to make a fast profit on a high volume run like Los Angeles/San Francisco because it knows it is going to a lose a bundle flying between Black Rock and Where-am-I City which the CAB, with the full support of concerned and interested members of Congress, requires it to do.

Except in those instances where it encounters competition from a PSA, it will succeed in this little book balancing act, charging one customer to pay for the flight of another so the CAB can perpetuate a network of routes which no longer and perhaps never did conform to the pattern of demand.

Certainly, no interstate carrier need be extensively concerned about new competition. The CAB has not approved entry of a new trunk carrier to the market since 1938. And just last month, the CAB rejected an application by Laker Airways, a privately-owned British airline, to fly regularly scheduled New York/London flights for $125 each way. That price, by the way, is little more than one-third of the economy fare charged now by Pan Am, TWA, and the other members of the international rate-fixing cartel.

As if that were not enough, the CAB also has been moving in directions which would raise prices in the heretofore unregulated charter market. Recently, it approved discussions betwen scheduled and charter carriers in hopes that a mutually satisfactory rate-floor for charter flights could be agreed to. I hardly need add that any such floor would be higher than current rates.

I would find it hard to imagine a more obvious instance of prices being pushed up by regulation than the case of the airlines.

Unfortunately, I do not have to imagine such a case, for we have the Interstate Commerce Commission. That body, as you know, was created way back in 1887 supposedly to protect shippers against the monopolistic power of the railroads.

But by 1935, the nation had sprouted a network of highways, and the trucks which rolled over them were biting deeply into the market power of the railroads.

With the trucking field still wide open to new entrants, this might logically have been the time to dismantle the ICC. The railroad monopoly was broken, competition could take its course.

Did that happen? No sir. Instead of freeing the railroads from regulation, Congress, in the Motor Carrier Act of 1935, just cast the regulatory net wider to include the interstate truckers as well.

As a result, today we have a situation in which market entry by new trucking firms is restricted by the ICC at the same time that rates are being fixed by the carriers who are given antitrust immunity to do so. Though the ICC has authority to investigate rate findings by the carriers, according to testimony given before a House Committee two years ago, the Commission was doing so in less than one percent of the cases.

And what is the result? Well, when the Supreme Court held some time ago that fresh dressed poultry was an agricultural commodity under the ICC Act and thus not subject to regulation, the average rate for shipping it fell by 33 percent. It is gratifying to note that the party who got the short end of the 5-4 decision was a certified carrier who was trying to stamp out the competition of an uncertificated carrier who had the temerity to haul chickens without a license.

I have given you just a couple of examples. But, when you take all of the industries subject to direct federal regulation—that's air, rail and truck transport, power generation, television, radio, the securities industry and others—it works out to a substantial fraction of the economy.

In fact, it is estimated that these regulated industries account for 10 percent of everything made and sold in this country. What makes them even more important from the point of view of inflation is that they tend to be industries whose prices show up as costs buried in the prices of hundreds of other products.

Take transportation for example. When you change the price of hauling freight, that change is going to show up in a lot of other products. Moreover, it will show up not just once but again and again. By the time you get a piece of meat from the pasture to the plate, it carries with it numerous transportation charges.

And these industries subject to direct regulation are only part of the story.

There are, in addition, the dozens and dozens of federal and state regulations, prohibitions, proscriptions and requirements all of which subvert competition in the name of a greater objective—though sometimes it is hard to see exactly what that greater objective is or on whose judgment its greatness rests. I refer to things such as:

State laws against advertising the prices of eyeglasses or prescription drugs;

The Jones Act forbidding foreign competition in the shipping business between U.S. ports;

The Federal Government's own "buy American" procurement preferences which can allow domestic producers to charge as much as 50 percent more than foreign sellers for some items. I should add that many states have similar preferences;

An agricultural support program which asks the consumer to buy with his tax dollars what he does not want, cannot use and will never eat;

An agricultural export subsidy program which asks the consumer to pay the farmer to sell his product to some foreign buyer at a price lower than that at which the consumer himself can get it.

The effect of some of this regulation may perhaps be seen in some recent events in California. This summer the California Milk Producers Association dumped 420,000 gallons of fresh skim milk into Los Angeles harbor. The dairy co-op said that it was necessary to dump the milk "because no market could be found for it."

At what price, I might ask. I suspect that more milk could be sold if it were not for the elaborate government programs designed to maintain higher than competitive prices on the producer, processor and on the retail levels.

I mention only a few. Former Council of Economic Advisers' member Hendrik Houthakker has compiled a list of 45 regulatory policies that contribute to inflation.

The list of noble goals advanced to support these regulatory subsidies is virtually without end. I'm as humane as the next guy. I am not criticizing these goals. A responsive government must take action to address the demands of the people.

But mischievous means are not justified by noble ends.

To me, the most distressing development is the pervasive and well-accepted dishonesty that pervades the government's approach to regulation.

The existing crazy quilt of anti-consumer subsidies embodied in the intricately woven fabric of federal and state statutes and regulations is pernicious because:

The subsidies are deliberately hidden from public view.

The government has irresponsibly lost track of the actual cost of these subsidies.

In most, if not all cases, we have adopted the least efficient form of subsidy with the purpose of hiding the subsidy from the public and obfuscating its true cost.

From time to time, proposals have been made to provide direct cash subsidies in lieu of the patchwork of regulatory subsidies that now pervade our economy. Opponents rise indignantly to object that hard-working individuals and businesses don't want handouts. Well, a rose by any other name. . . .

Our airlines, our truckers, our railroads, our electronic media, and countless others are on the dole. We get irate about welfare fraud. But, our complex systems of hidden regulatory subsidies make welfare fraud look like petty larceny.

I have no way of knowing what the numerous regulatory measures cost the consumer each year. I have seen private estimates indicating that the annual costs in the transportation area alone may exceed $16 billion.

I invite students of this kind of thing to come up with their own figures. Whatever they are, I think we can all agree on this: the costs are too high.

There are free market purists who are revealing the growing disenchantment with heavy-handed regulation. They have contended all along that the market was the fairest and most rational allocator of resources; that you could no more improve its performance by regulation that you could improve the performance of a fine watch by poking around in its works with a paperclip.

It seems to me that these arguments—taken to the extreme—are both naive and destined to be ignored. They are naive because they stress only the virtues of the long range adjustment facility of the market system. They ignore the short term dislocations that market forces produce and they discount legitimate social objectives that enlightened peoples choose to pursue. Voters do not live on bread alone. And to the extent they do live on bread, it is this year's bread, not next year's.

The market will not prevent bank failures or compensate their victims. It will not guarantee safe toys or unadulterated drugs. And it will not ensure a clean environment.

If we want to be assured of these things, we may need some regulation.

Regulation may also be needed to protect the consumer where natural monopolies exist, that is, where economies of scale argue strongly for a market being served by a single producer. Electric power and local phone service are good examples of this.

These are instances in which some would say that the benefits of regulation can be said to exceed its costs.

But the trade-off between benefits and costs is not always an easy determination to make. Moreover, neither the benefits nor the costs will remain constant over time. Some of the costs, such as direct expendi-

tures, are obvious. Others, such as the costs the consumer pays for diminished competition, are not so obvious.

The problem of weighing costs and benefits is made more complex because often it is necessary to compare unlike qualities. (How, for instance, do you give pain and suffering a monetary value?) Or because those who bear the costs may be far more numerous than those who reap the benefits. (In order to spare one person 100 units of discomfort, is it fair to assess 100 people more than one unit each?)

I don't know the answers to these questions. The point is that each and every regulation or regulatory policy that contributes to inflation should be re-examined to make sure that the trade-off between costs and benefits which presumably brought about its institution, is still valid. We may well find that some of the more costly ones look a lot less attractive in a world of 12 percent inflation than they did in a world of 3 percent inflation.

We should also re-examine them to see whether those imagined trade-offs were accurate in the first place. For instance in the case of the ICC, rates wasted no time in going up immediately after the agency's creation.

When truckers are permitted to fix prices and are subject to a panoply of regulations all because the transportation mode with which they compete once had excessive market power, one is hard pressed for a logical explanation. When airlines are going broke despite the fact that they charge twice as much as others are willing to fly for, something is seriously wrong.

The fact of the matter is that most regulated industries have become federal protectorates, living in the cozy world of cost-plus, safely protected from the ugly specters of competition, efficiency and innovation.

There are those who hold the businessman to be so unprincipled and greedy that they regard any governmental interference with his free movement as an addition to the social welfare.

Experience would seem to contradict that point of view. In point of fact, the effect of government interference frequently has been to remove the one thing that stood in the way of the anti-social exercise of greed; I am referring to competition. Meanwhile, the scheme of regulation has proven at least as susceptible to the lure of protectionism as the private interests it replaced.

As a political matter, we will not be able to pare away our excessive regulatory fat unless the public can be assured of adequate protection against the abuses that regulation was designed to curb.

We at the Federal Trade Commission can help provide that assurance. Through a vigorous antitrust policy, we can help prevent the aggregations of private market power which permit consumer abuse and create a need for regulation.

But there will still be cases in which regulation is necessary. For those cases, the advice I would offer is that the costs of the regulation—and I mean the direct costs, the indirect costs, the present costs and the future costs—be fully understood and consistent with what we hope to gain. The task won't be simple. Cost calculations of the type I propose are likely to be imperfect. We currently lack not only accepted calculation methodologies but also much of the raw data necessary to informed estimates. But unless substantial progress is made, our regulators will continue to stumble around in an increasingly expensive game of blind man's bluff. Unless and until these facts are brought to light, I see little hope for assuming that public actions will match up to public expectations or the public interest.

THE TRANS-ALASKA PIPELINE SYSTEM

Mr. STEVENS. Mr. President, prior to and during congressional consideration of legislation authorizing construction of the trans-Alaska oil pipeline, the subject of possible environmental damage to Alaska created by pipeline construction activities and possible oilspills were important issues of debate.

As a supporter of the pipeline project, and as one who has studied the effects of possible oilspills on Alaska's terrain, I have taken note of two recent findings which illustrate that the pipeline construction is proceeding on an environmentally sound course.

The Arctic Environmental Council is an independent nine-member group created to perform onsite observations of the pipeline construction activities and publish its views on broad environmental aspects of the project. The council has recently completed its initial onsite visit of the Trans-Alaska Pipeline System, and has found that the work is proceeding according to good environmental engineering practices.

Mr. President, I ask unanimous consent that the statement by the Arctic Environmental Council, Anchorage, Alaska, be printed in the RECORD.

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

THE ARCTIC ENVIRONMENTAL COUNCIL,
Anchorage, Alaska, October 11, 1974.

STATEMENT

The Arctic Environmental Council completed its initial on-site visit of the Trans-Alaska Pipeline System.

The Council met in Anchorage on Monday, October 7 to receive information from Alyeska and regulatory agencies on construction progress, future plans and methods used to insure compliance with the environmental stipulations of the pipeline agreement.

On Tuesday the Council flew to Prudhoe Bay and visited the oil field facilities including the site of the northern terminal where oil will enter the pipeline system. The council then flew to Galbraith Camp where it toured the camp and traveled by bus toward Dietrich Pass observing road construction and a pump station site. The group remained overnight at Galbraith.

On Wednesday, the Council flew to Chandalar Camp and after visiting the camp site, traveled by bus to Coldfoot Camp, visiting material sites, stream crossing sites, pump station sites and other features of interest to the Council. A flight was then made to Fairbanks where the Council had informal discussions and remained overnight.

On Thursday morning, the Council flew at low level along the pipeline route to Donnelly Dome where poor weather forced the pilot to fly over the cloud cover to Gulkana Airport. At Gulkana, the Council again boarded a bus and traveled south to Valdez observing campsites, pump station sites, stream crossings, material sites, access roads and pipeline right of way. In Valdez, the Council visited the terminal construction site and received a detailed description of the construction. The Council returned to Anchorage by low level flight along the coast. The Council was given the opportunity to see what they wanted to see and questions were answered by company and regulatory agency field representatives.

On Friday, October 11 the Council met in Anchorage with company and government representatives to ask questions and to discuss the project. The Council notes evidence of environmental consciousness at all levels and observed that with only a few exceptions the work is proceeding according to good environmental engineering practices. However, the project is in its early phases and many significant construction tasks lie ahead.

The Council will concern itself with many broad issues relating to the pipeline including planning for the future use of the utility corridor.

The Council is concerned about mechanisms for keeping the public informed of charges being made periodically for engineering or environmental reasons. The Council is considering means to this end.

The Council feels that Alyeska and the monitoring agencies have been open and cooperative in making the on-site visit possible and informative. Its members feel that information was given at all levels with complete candor.

At its final session, the Council decided to affiliate for administrative purposes with the Arctic Institute of North America. The Institute's office at 1343 G Street will serve as headquarters of the Council and Phil Upton and Jo Ann Burns will begin functioning immediately as support staff. The Council plans to increase the staff in the near future to provide continuing contact with the pipeline project.

The Arctic Environmental Council is a nine-member group formed to observe construction of the Trans Alaskan Pipeline System by periodic on-site visits, and to publish its views on broad environmental aspects of the pipeline construction and operation. The long term purpose of the Council is to maintain continuous dialogue and to promote mutual understanding among the energy companies and the environmental/conservation organizations. A goal of the Council is to develop a useful model for future relationships among such groups with regard to other major projects.

The group was formed at the initiative of the Arctic Institute of North America when approval of the pipeline seemed imminent more than a year ago. Council members were elected by a steering committee from nominations made by environmental/conservation organizations. Council members and addresses are listed on the attachment.

The independence of the Council from government or industry control is a major feature. Neither government nor industry was represented on the panel which selected the Council members, and neither is represented on the Council. Although the Alyeska Pipeline Service Company participated in early discussions, it is not a party to the Agreement and has no member on the Council. However, Alyeska Pipeline Service Company, the Department of the Interior and the State of Alaska recognize the Council and are cooperating.

NAMES AND ADDRESSES OF ELECTED MEMBERS OF THE COUNCIL

Dr. Fred G. Armstrong, Vice President, Financial and Administrative Affairs, Aspen Institute for Humanistic Studies, Post Office Box 219, Aspen, Colorado 81661.

Mr. Brock Evans, Director, Washington Office, Sierra Club, 324 C Street, S.E., Washington, D.C. 20003.

Mr. Raymond A. Haik, 4344 I.D.S. Center, Minneapolis, Minnesota 55402.

Dr. Ian McTaggart-Cowan, Dean, Graduate Studies, University of British Columbia, Vancouver, B.C., Canada.

Mr. Hamilton Pyles, Executive Secretary, Natural Resources Council of America, Suite 911, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

Mr. Boyd L. Rasmussen, 6768 Baron Road, McLean, Virginia 22101.

Mr. P. W. Schneider, Regional Executive, National Wildlife Federation, 8755 S.W., Woodside Drive, Portland, Oregon 97225.

Dr. Robert Weeden, University of Alaska, College, Alaska 99701.

Dr. Norman J. Wilimovsky, Institute of Animal Resource Ecology, University of British Columbia, Vancouver 8, B.C., Canada.

THE ARCTIC ENVIRONMENTAL COUNCIL
Report on the First On-site Visit to the Trans-Alaska Pipeline System, October 7 Thru 11, 1974

Summary

The Arctic Environmental Council visited the Trans-Alaska Pipeline System during the period October 7 thru 11, 1974.

The Arctic Environmental Council is an independent, nine-member group, formed to observe construction of the Trans-Alaska Pipeline System by periodic visits and to publish its views on broad environmental aspects of the pipeline construction and operation. The long term purpose of the Council is to maintain continuous dialogue and to promote mutual understanding among the energy companies and environmental/conservation organizations and to develop a useful model for future relationships among such groups with regard to other major projects.

In Anchorage, on October 7, the Council received a description of the pipeline project and information on methods for complying with environmental stipulations of described provisions for insuring compliance. Three days were spent observing the pipeline route, a reasonable amount being covered on the ground. Visits were made to pump station sites, construction camps, stream and river crossings, material mining sites, pipe storage sites, Prudhoe Bay oil field and the Valdez terminal site. Discussions were held in the field with inspectors, superintendents, workers, resident engineers, biologists, Alyeska company executives and resident representatives of monitoring agencies. On Friday, October 11, the Council met again in Anchorage to formulate a preliminary statement and to discuss its observations with Alyeska executives, State and Federal Officials. A statement was released to the press as a means of reporting the Council's preliminary findings to the public.

The Council was pleased to note evidence of environmental consciousness at all levels and observed that with few exceptions the work is proceeding according to good environmental engineering practices. However, the Council noted that the project was in its early phases and that many significant construction tasks lie ahead. The Council will concern itself with many broad issues relating to the pipeline including planning for future use of the utility corridor. The mechanisms for keeping the public informed of changes being made periodically for engineering or environmental reasons needs attention.

The Council established a presence in Alaska by affiliating with the Arctic Institute of North America in its Alaska Office in Anchorage. The next on-site visit was set for April, 1975.

Mr. STEVENS. Mr. President, on November 20 and 21, a group of scientists from throughout the United States who have made a 5-year tundra ecosystem study, met in Anchorage to attend the Tundra Biome seminar. The study was funded by the National Science Foundation and the State through the University of Alaska.

The Anchorage Daily Times recently printed a story about the seminar proceedings and the finding of the scientists who participated in the study, and it should be of interest of both supporters and nonsupporters of the trans-Alaska pipeline project.

I believe both articles indicate that the construction work is proceeding without significant environmental consequences, and once the project is completed, the threat of damage of Alaska's terrain caused by an oil spill is minimal if proper care is taken to clean up any damaged areas.

I ask unanimous consent that the article entitled "Scientists Soften Myth of Oil Spill Destruction" be printed at this point in the RECORD.

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

SCIENTISTS SOFTEN MYTH OF OIL SPILL DESTRUCTION

(By Helen Gillette)

A North Slope oil spill need not be disastrous if it's mopped up quickly, scientists attending the Tundra Biome seminar at the Captain Cook Hotel yesterday were told.

In a presentation of oil spill experiments carried on during the government-funded five-year tundra ecosystem study, University of Wisconsin scientist Bren McCown said the tundra has a "fairly low sensitivity" to oil, with little or no damage resulting unless "the organic mat is thoroughly soaked."

Commonsense measures, such as immediate mop-up, and protection of the fresh water systems from oil, should be enough to prevent damage, he said.

Also there are only a few weeks out of the year when it is thawed and susceptible to soaking, he said.

However, once the mat is thoroughly soaked, it dies, and observation of a 15-year-old patch showed that it has failed to regenerate. "The question is, whether to remove it and hope for regrowth or to leave it as a bar to erosion."

Introduction of oil into fresh water ponds brings a change in the kinds of plant life and kills off animal forms, said Dr. Vera Alexander of the University of Alaska, Fairbanks. "We don't know whether the change is from the oil, or from the fact that the animal grazers have been eliminated."

The tundra is quickly affected however, by any kind of pressure, even that from air cushion vehicles and rolligons, according to a report by San Diego State University scientist Philip Miller.

Even one pass with such a vehicle causes a persisting 'green belt' effect, with plant growth speeded up as a result of pressure.

"We don't know exactly what causes this, probably the faster breakdown of food nutrients, but it looks like a fertilized area," he said. Such a vehicle can make only a few passes over the same track without causing some tundra breakdown, he said.

As for the green belt, illustrated in slides shown the audience, Miller said he doesn't know "whether this is good or bad, but it is a change in the natural appearance."

Dr. George West, director of the Tundra Biome Center at Fairbanks, commented that the experiments seem to indicate that additional use of roads or helicopters might be advisable to widespread use of the tundra vehicles.

Results of the five-year study, funded by the federal National Science Foundation and the state through the University of Alaska, with about 15 per cent coming from the oil industry, will be published in a series of volumes, project director Dr. Jerry Brown of Hanover, N.H., said.

The main thrust of the study, which had 30 institutions participating in field projects, was to gain knowledge of the basic tundra ecosystem, "to learn how the whole thing works," he said.

"This basic research represents what we need to know in order to give agencies and industry the facts they need. These side experiments with oil spills and vehicle use were merely by-products."

The two-day session, attended by government agency and industry representatives, saw scientists from four universities presenting what Dr. Brown called "a sampling of what we've learned."

AUGUST GEHRKE: SPOKESMAN FOR THE HANDICAPPED IN MINNESOTA

Mr. HUMPHREY. Mr. President, Minnesota is fortunate to have as its assistant commissioner for vocational rehabilitation a man who is totally dedicated to helping our handicapped citizens have the opportunity to live lives of hope and promise.

I have been privileged to know August W. Gehrke as a friend and to be inspired by his commitment and insight in meeting the needs of handicapped persons. Recently, Gus Gehrke received a well-deserved honor in being elected president of the National Rehabilitation Association. This reflects the respect in which he is held by his colleagues and a recognition of the highly important contribution he will continue to make in affirming the right of handicapped persons to self-respect and dignity.

Gus Gehrke can justly take pride in the substantial progress in rehabilitation services and facilities that has taken place in Minnesota. But he has never rested on his laurels; he remains deeply concerned about persons who have not yet been helped to help themselves. This human concern comes across very clearly in an interview by Oliver Towne, published in the St. Paul Dispatch of November 12, 1974.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the St. Paul Dispatch, Nov. 12, 1974]

GUS' BIG WORRY: "THE ONE OUT THERE WE'RE MISSING"

(By Oliver Towne)

August (Gus) Gehrke sits in his shirtsleeves on the eighth floor of the Capitol Square Bldg. and holds the lives of more than 100,000 Minnesotans in the palm of his right hand.

The birth-damaged left arm and hand remind him of what it means to be physically handicapped. He can only guess how it is to be mentally handicapped as well.

Gus Gehrke is administrator of Vocational Rehabilitation for Minnesota.

"Once I sat with a leading medical man who recited the great advances his profession had made to cure people's bodies, help them live longer," said Gus.

"I told him, 'Yes, you have given more years to life. But have we given more life to those years?' "

This, amid the overwhelming size of the task, the frustrations, red tape, forms, disagreements on approaches, is what Gus Gehrke wants to do for "his people" in Minnesota.

"Every time I read that slogan, 'Hire the Handicapped' I wince," he said. "What it should say is, 'Hire a Rehabilitated Worker.' "

But did the guy at the top have a real feeling for all of these people? Was some faceless "committee" doing it all? Was there a real human being sitting at the tip of the pyramid?

Gus Gehrke is a real human being.

In Gus' utopia of the handicapped, the institutions would be emptied of every single human being who could be motivated, whose talents could be stretched to the limit, who would be working, producing, re-training or

trained as people with self-respect and dignity. As total human beings.

"Living, yes and loving," said Gus.

"It is appalling the attitudes we still have about people who are handicapped in any way . . . such as their need to love and be loved . . . and I mean recognizing their sexuality . . . and yet, I'm considered far out when I bring this thing up . . . when will the rest of us realize that they have needs, too?"

The revolution in rehabilitating the handicapped in Minnesota was barely stirring in the 1930s when Gus was a boy on a farm near Fair Haven, in Stearns County.

He was the "kid with the screwy" left arm and hand.

In those years, the handicapped lived in dreary, almost living death environments. Thousands were hidden away in back bedrooms, institutions where the emphasis was on existing, but never more. "Maybe they'll die after awhile," their custodians said.

Gus left home, finally, as a junior high school dropout. He went to Okabena and back to school, drove a school bus, husked corn, worked on a farm for his board and room.

Then, one day, a man came around to see him, from an office called Vocational Rehabilitation, and asked Gus if he'd ever thought of going to college. If so, there was some financial help available. Gus enrolled at St. Cloud State College, was graduated as a teacher in 1942 and taught school, directed class plays, yes, and even coached at Granada and then at Two Harbors.

"I always had a yen to get involved with vocational rehabilitation . . . with my kind of people," Gus said. When the chance came in Duluth, he took it, stayed ten years on the firing line, then moved to the top job 17 years ago.

"We were racing then," said Gus. "Almost frantically trying to catch up."

"When I was a boy, there were two places that hired rehabilitated workers—the Goodwill and the Blind Society . . . Good heavens, now we've got 45 sheltered workshops in the state, many more Day Activity Centers, retrained people working in offices, kitchens, factories . . . We've ramped buildings, curbings, theaters, night clubs, malls . . . We've got mentally and physically handicapped men and women living in their own apartments . . . going to ball games, the Guthrie, dinner theaters," Gus said.

"But you always know—that is what bothers me—that somewhere out there beyond this window is one human being who needs help and isn't getting it . . . and we can't get so big that we forget that it is this human being for whom all of us—in every agency, society group—exist.

"How do you put more life into that person's years?"

FUTURE ENERGY NEEDS

Mr. HATFIELD. Mr. President, the one book that can do more to further the American public's understanding of our present energy situation and our future alternatives than any of the hundreds that have been published in recent years is Wilson Clark's "Energy for Survival," just out this fall. He has also recently written an article for the Smithsonian which explains a concept that should be central to our planning for meeting our future energy needs. The article is rather unexpected by me, for I would have expected him to take a long vacation following his mammoth effort on "Energy for Survival," which examines the energy basis of Western civilization, surveys the current patterns of energy use in our particular society, explains the development problems and potential of our multifarious energy sources, and looks at the implications of all this for the survival of our way of life. While I can only recommend this book to my colleagues and constituents, I ask unanimous consent to have Mr. Clark's article from the December Smithsonian printed in the RECORD.

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

[From the Smithsonian magazine, December 1974]

IT TAKES ENERGY TO GET ENERGY; THE LAW OF DIMINISHING RETURNS IS IN EFFECT

(By Wilson Clark)

In the mid-19th century, a British company launched the *Great Eastern*, a coal-fired steamship designed to show the prowess of Britain's industrial might. The ship, weighing 19,000 tons and equipped with bunkers capable of holding 12,000 tons of coal, was to voyage to Australia and back without refueling. But it was soon discovered that to make the trip the ship would require 75 percent more coal than her coal-storage capacity—more coal, in fact, that the weight of the ship herself.

Today the United States is embarking on an effort to become independent in energy production, and such a program deserves the kind of analysis that the British shipbuilders overlooked. Indeed, our civilization appears to have reached a limit similar to that of the *Great Eastern*: The energy which for so long has driven our economy and altered our way of life is becoming scarce, and a number of respected experts are suggesting that, without significant changes, our society will go the way of the ship that needed more fuel than it could carry.

In recent years, energy growth in the United States has expanded at a rate of nearly four percent per year, resulting in a per capita consumption of all forms of energy higher than that of any other nation. U.S. energy consumption in 1970 was half again as much as all of Western Europe's, even though Europe's population is one-and-a-half times ours.

As energy consumption has increased in this nation, our energy resources have drastically declined. According to M. King Hubbert, a highly respected energy and resource expert, the peak for production of all kinds of liquid fossil fuel resources (oil and natural gas) was reached in this country in 1970 when almost four billion barrels were produced. "The estimated time required to produce the middle 80 percent [of the known reserves of this resource]," Hubbert says, "is the 61-year period from 1939 to the year 2000, well under a human lifespan."

As available domestic oil and gas resources have declined, we have turned more and more to foreign imports—but, since 1973, the price of this essential imported oil has quadrupled. Recoiling from the specter of another embargo, federal officials and industrialists have suggested that the nation develop alternative energy sources such as nuclear power, and fossil fuels such as coal and oil shale, to bridge the energy gap and enable the nation to become self-sufficient.

According to John Sawhill, former chief of the Federal Energy Administration, "the repercussions of Project Independence will be felt throughout our economy. It will have a dramatic impact on the way 211 million Americans work and live." The price tag placed on pursuing the energy goals of Project Independence has been estimated to fall somewhere between $500 billion and $1 trillion. Raising such capital for energy development may prove to be the greatest financial undertaking in the history of the United States. A growing number of experts, however, say the goal of Project Independence may be unreachable.

The central problem is simply that it takes energy to produce new energy. In other words, in every process of energy conversion on Earth, some energy is inevitably wasted. The laws of thermodynamics, formulated in the last century, might be viewed as describing a sort of "energy gravity" in the universe: energy constantly moves from hot to cold, from a higher to a lower level. Some energy is free for Man's use—but it must be of high quality. Once used, it cannot be recycled to produce more power.

Coal, for example, can be burned in a power plant to produce steam for conversion into electric power. But the resulting ashes and waste heat cannot be collected and burned to produce yet more electricity. The quality of the energy in the ashes and heat is not high enough for further such use.

Numerous studies have indicated that the United States has enormous reserves of fossil fuels which can provide centuries of energy for an expanding economy, yet few take into account the thermodynamic limitations on mining the fuels left. Most cheap and accessible fossil fuel deposits have already been exploited, and the energy required to fully exploit the rest may be equal to the energy contained in them. What is significant, and vital to our future, is the net energy of our fuel resources, not the gross energy. Net energy is what is left after the processing, concentrating and transporting of energy to consumers is subtracted from the gross energy of the resources in the ground.

Consider the drilling of oil wells. America's first oil well was drilled in Pennsylvania in 1859. From 1860 to 1870, the average depth at which oil was found was 300 feet. By 1900, the average find was at 1,000 feet. By 1927, it was 3,000 feet; today, it is 6,000 feet. Drilling deeper and deeper into the earth to find scattered oil deposits requires more and more energy. Think of the energy costs involved in building the trans-Alaska pipeline (see SMITHSONIAN, October 1974). For natural gas, the story is similar.

Dr. Earl Cook, dean of the College of Geosciences at Texas A. & M. University, points out that drilling a natural gas well doubles in cost each 3,600 feet. Until 1970, he says, all the natural gas found in Texas was no more than 10,000 feet underground, yet today the gas reserves are found at depths averaging 20,000 feet and deeper. Drilling a typical well less than a decade ago cost $100,000 but now the deeper wells each cost more than $1,000,000 to drill. As oilmen move offshore and across the globe in their search for dwindling deposits of fossil fuels, financial costs increase, as do the basic energy costs of seeking the less concentrated fuel sources.

Although there is a good deal of oil and natural gas in the ground, the net energy—our share—is decreasing constantly.

The United States has deposits of coal estimated at 3.2 trillion tons, of which up to 400 billion tons may be recoverable—enough, some say, to supply this nation with coal for more than 1,000 years at present rates of energy consumption. And since we are dependent on energy in liquid and gaseous form (for such work as transportation, home and industrial heating), the energy industries and the Federal Energy Administration have proposed that our vast coal deposits be mined and then converted into gas and liquid fuels.

Yet the conversion of coal into other forms of energy, such as synthetic natural gas, requires not only energy but large quantities of water. In fact, a panel of the National Academy of Sciences recently reported that a critical water shortage exists in the Western states, where extensive coal deposits are located. "Although we conclude that enough water is available for mining and rehabilitation at most sites," said the scientists, "not enough water exists for large-scale conver-

sion of coal to other energy forms (e.g., gasification or steam electric power). The potential environmental and social impacts of the use of this water for large-scale energy conversion projects would exceed by far the anticipated impact of mining alone." In fact, the energy and water limitations in the Western states preclude more than a fraction of the seemingly great U.S. coal deposits from ever being put to use for gasification or liquefaction.

The prospects for oil shale development are not as optimistic as some official predictions portend. Unlike oil, which can be pumped from the ground relatively easily and refined into useful products, oil shale is a sedimentary rock which contains kerogen, a solid, tarlike organic material. Shale rock must be mined and heated in order to release oil from kerogen. The process of mining, heating and processing the oil shale requires so much energy that many experts believe that the net energy yield from shale will be negligible. According to *Business Week*, at least one major oil company has decided that the net energy yield from oil shale is so small that they will refuse to bid on federal lands containing deposits. And even if a major oil-shale industry were to develop, water supplies would be as great a problem as for coal conversion, since the deposits are in water-starved Western regions. The twin limiting factors of water and energy will preclude the substantial development of these industries.

Nuclear power is seen as the key to the future, yet an energy assessment of the nuclear fuel cycle indicates that the net energy from nuclear power may be more limited than the theoretically prodigious energy of the atom has promised.

Conventional nuclear fission power plants, which are fueled by uranium, contribute little more than four percent of the U.S. electricity requirements at present, but according to the Atomic Energy Commission, fission will provide more than half of the nation's electricity by the end of the century. Several limitations may prevent this from occurring. One is the availability of uranium ore in this country for conversion to nuclear fuel. According to the U.S. Geological Survey, recoverable uranium resources amount to about 273,000 tons, which will supply the nuclear industry only up to the early 1980s. After that, we may well find ourselves bargaining for foreign uranium, much as we bargain for foreign oil today.

According to energy consultant E. J. Hoffman, however, an even greater problem with nuclear power is that the fuel production process is highly energy-intensive. "When all energy inputs are considered," he says, such as mining uranium ore, enriching nuclear fuel, and fabricating and operating power plants and re-processing facilities, "the net electrical yield from fission is very low." Optimistic esimates from such sources as the President's Council on Environmental Quality say that nuclear fission yields about 12 percent of the energy value of the fuel as electricity: Hoffman's estimate is that it yields only 3 percent. That advanced reactors might have a higher net yield is one potential, but largely unknown at present, since such reactors have not yet been built and operated commercially.

Other nuclear power processes, such as nuclear fusion, have simply not yet been shown to produce electricity, and so they cannot be counted upon. Even the more "natural" alternative energy sources, such as solar power, wind power and geothermal power, have not been evaluated from the net energy standpoint. They hold out great promise—especially from a localized, small-scale standpoint. Solar energy, for example, is enormous on a global scale but its effect varies from one place to another. However, the net energy yield from solar power overall might be low, requiring much energy to build elaborate concentrators and heat storage devices necessary.

What about hydrogen as a replacement fuel? By itself, hydrogen is not at all abundant in nature, and other energy sources must first be developed to power electrolyzers in order to break down water into hydrogen and oxygen. The energy losses inherent in such processes may result in a negligible overall energy yield by the time hydrogen is captured, stored, and then burned as fuel. An indication of the magnitude of this problem has been given to Dr. Derek Gregory of the Institute of Gas Technology in Chicago, who points out that to substitute hydrogen fuel fully for the natural gas currently produced would require the construction of 1,000 enormous one-million-kilowatt capacity electric power plants to power electrolyzers—more than twice the present entire installed electrical plant capacity of the nation.

While much of this kind of analysis is apparently new to most energy planners, it also represents more than an analogy to the cost-accounting that is familiar to businessmen investing dollars to achieve a net profit. The net energy approach might provide a new way of looking at subjects so seemingly disparate as the natural world and the economy.

DOLLAR VALUE OF NATURAL SYSTEMS

An outspoken proponent of the net energy approach is Dr. Howard T. Odum, a systems ecologist at the University of Florida. In the 1950s, Odum analyzed the work of researchers trying to grow algae as a cheap source of fuel, and found that the energy required to build elaborate facilities and maintain algae cultures was greater than the energy yield of the algae when harvested for dry organic material. The laboratory experiment was subsidized, not by algae feeding on free solar energy—which might have yielded a net energy return—but by "the fossil fuel culture through hundreds of dollars spent annually on laboratory equipment and services to keep a small number of algae in net yields."

With his associates at the University of Florida, Odum began to develop a symbolic energy language, using computer-modeling techniques, which relates energy flows in the natural environment to the energy flows of human technology.

Odum points out that natural sources of energy—solar radiation, the winds, flowing water and energy stored in plants and trees—have been treated as free "gifts" rather than physical energy resources which we can incorporate into our economic and environmental thinking. In his energy language, however, a dollar value is placed on all sources of energy—whether from the sun or petroleum. To produce each dollar in the economy requires energy—for example, to power industries. The buying power of the dollar, therefore, can be given an energy value. On the average, Odum calculates, the dollar is worth 25,000 calories (kilo-calories, or large calories) of energy—the familiar energy equivalent dieters know well as food values. Of this figure, 17,000 calories is high-quality energy from fossil fuels and 8,000 calories low-quality energy from "natural" sources. In other words, the dollar will buy work equal to some mechanical labor, represented by fossil fuel calories, and work done by natural systems and solar energy.

Odum's concept of energy as the basis of money is not new; a number of 19th-century economists thought of money or wealth as deriving from energy in nature. The philosophy was expounded earlier in this century by Sir Frederick Soddy, the British scientist and Nobel Laureate, who wrote that energy was the basis of wealth. "Men in the economic sense," he said, "exists solely by virtue of being able to draw on the energy of nature. . . . Wealth, in the economic sense of the physical requisites that enable and empower life, is still quite as much as of yore the product of the expenditure of energy or work."

Odum views natural systems as valuable converters and storage devices for the solar energy which triggers the life-creating process of photosynthesis. Even trees can be given a monetary value for the work they perform, such as air purification, prevention of soil erosion, cooling properties, holding ground water, and so on. In certain locations, he says, an acre of trees left in the natural state is worth more than $10,000 per year or more than $1 million over a hundred-year period, not counting inflation. Last year, he calculated that solar energy, in conjunction with winds, tides and natural ecological systems in the state of Florida, contributed a value of $3 billion to the state, compared to fossil fuel purchases by the state's citizens of $18 billion per year.

The value of the natural systems to the state had never before been calculated. "These parts of the basis of our life," says Odum, "continue year after year, diminished however, when ecological lands that receive sun, winds, waves and rain are diverted to other use." He is now developing a "carrying capacity" plan for the future development of the state which has attracted the interest of the state legislature.

Odum's work may lead to eminently practical applications, by indicating directions in which our society can make the best use of energy sources and environmental planning. One application is to use natural systems for treating wastes, rather than using fossil fuels to run conventional waste-treatment plants. "There are," he says, "ecosystems capable of using and recycling wastes as a partner of the city without drain on the scarce fossil fuels. Soils take up carbon monoxide, forests absorb nutrients, swamps accept and regulate floodwaters." He is currently involved in a three-year program in southern Florida to test the capability of swamps to treat wastes, and demonstrate their value to human civilization as a natural "power plant." The work, supported by the Rockefeller Foundation and the National Science Foundation, has drawn the attention and interest of many community and state governments.

According to Odum's energy concepts, a primary cause of inflation in this country and others is the pursuit of high economic growth with ever-more costly fossil fuels and other energy sources. As we dig deeper in our search for less-concentrated energy supplies to fuel our economy, the actual value of our currency is lessening. "Because so much energy has to go immediately into the energy-getting process," he notes, "then the real work to society per unit of money is less."

Economists, who generally resent intruders on their turf, have not embraced this equation of energy and money with much enthusiasm, but it is gaining adherents in several quarters. According to Joel Schatz of Oregon's energy planning office, Odum's work leads the way toward effective government planning in this age of economic uncertainty. "The more successful the United States is in maintaining or increasing its total energy consumption," he says, "under conditions of declining net energy, the more rapidly inflation, unemployment and general economic instability will increase." Many people currently consider this disruption only an economic crisis, says Schatz, rather than what he believes it really is: a symptom of a continuing and deepening energy crisis.

There are signs that the net energy approach is being taken seriously even by the architects of Project Independence. Eric Zausner of the Federal Energy Administration says that net energy is a "useful concept" which is under investigation. "Net energy flows," he adds, "have practical implications in the new and exotic fuels, such as oil shale. With coal, there is no issue, since there is a net output of energy. But some of the new processes, such as shale oil processing in situ, net energy flow is a very important consideration in whether we should do it or not."

Congressman George Brown Jr., a physicist from Southern California and one of a bare handful of scientifically trained members of Congress, goes much further. He believes that the new Office of Technology Assessment in the Congress should undertake a broad energy analysis, encompassing the net energy approach, of the widespread implications of the administration's plans for Project Independence. "We must start with the assumption that the energy available to do work is declining. This one assumption, which is firmly based on the laws of physics, will revolutionize economic policy once its truth becomes known. . . . The implications of the limits to growth of our economic systems are just beginning to be understood," says Congressman Brown, pointing out that the net energy approach indicates the inevitability of a national shift of emphasis toward a steady-state economy. "While this view is not yet widely held in Congress, the ranks of advocates are growing."

Since the Industrial Revolution, the Western world has been engaged in a great enterprise—the building of a highly complicated technological civilization. The Western "growth" economy (which today also characterizes Japan) has been made possible by *seemingly endless* supplies of inexpensive energy. One implication of the net energy approach is that a vigorous and wide-reaching conservation program may be the only palliative for inflation.

Another implication is that the days of high growth may be over sooner than most observers have previously thought. For it is increasingly apparent that today's energy crisis is pushing us toward a "steady-state" economy: No one yet knows what such an economy will look like or what social changes will result. But it would seem to be about time to start thinking seriously about it.

RAISING THE NUCLEAR CEILING

Mr. SYMINGTON. Mr. President, I ask unanimous consent that an interesting statement broadcast by Edward P. Morgan, ABC News, on the subject of nuclear arms be printed in the RECORD at the conclusion of this statement.

Apparently, the word "overkill" is one that is not considered as we watch our economy deteriorate at the same time we increase our nuclear stockpile.

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

STATEMENT BY EDWARD P. MORGAN

This is Edward P. Morgan, ABC News Washington, with the Shape of One Man's Opinion. A look at disarming Jerry Ford after this word.

* * * * *

It turns out that President Ford and Secretary Brezhnev didn't put a ceiling on nuclear weapons at Vladivostok after all. Instead they really raised the roof. It could have been worse. That's the dubiously redeeming element of the agreement: it's less bad than none at all. The president at his Monday evening news conference confirmed the accord allows both the Soviet Union and the United States to produce many more and even more powerful missiles before they hit the ceiling but he argued staunchly the levels are substantially below what both powers might be expected to reach in the next decade without these new limitations.

Maybe so. But only maybe. For, ironically, a key question that the president didn't get asked although several reporters including this one had it in mind—challenged the need of raising the ceiling at all. Instead, why shouldn't it actually be lower than the existing inventories of nuclear weapons on both sides? Why, in other words, shouldn't the superpowers move toward disarmament now instead of erecting a future ceiling of controls after still more of these deadly armaments are built?

Nobody in charge, either in the White House or the Kremlin, seems to want to fool with this question because it goes to the heart of the matter: a two-ply four-letter word called overkill, which the Pentagon, and presumably the Russian military brass too, have banned from their lexicon. What it simply means is that for years both powers have had more than enough nuclear warheads (translation; hydrogen bombs) to destroy each other many times over, not to mention the rest of the world.

As retired Admiral Gene LaRocque, head of the Center for Defense Information, recently testified in Congress, the U.S. has some 8,000 nuclear weapons, a little more than triple the Soviet stockpile, but either total is more than capable of blowing up the planet. And now Vladivostok's "ceiling" encourages thousands more. Yesterday I asked William C. Foster, first director of the U.S. Arms Control and Disarmament Agency, why both Moscow and Washington refused to recognize the reality of overkill. His answer was a look of dismay and frustration.

Research begun at the Agency under Foster, one of America's top experts on nuclear weapons and disarmament, surfaced yesterday under the auspices of the Institute for World Order. It charted the lethal orbit on which the world is wobbling.

Despite detente, the arms race is quickening. At current spending rates, at 1972 dollar values, the total military outlay of the family of nations for the 1960s and 70s will be four and one-third trillion dollars.

That is vastly more than what the world spends on the growing social needs of the global community.

What we need, plainly, is a ceiling on the human stupidity that supports such distorted priorities.

I'll have a footnote in 30 seconds.

* * * * *

Education, says veteran arms control negotiator William Foster, is the key to a breakthrough on braking the arms race. And that education, it seems, should start at the top.

This is Edward Morgan, ABC News Washington with the Shape of One Man's Opinion.

FINANCING FUTURE INDUSTRIAL CAPITAL REQUIREMENTS

Mr. TOWER. Mr. President, an editorial by Mr. Robert H. Malott, president of the FMC Corp., recently appeared in the FMC Progress magazine that I would particularly like to call to the attention of my colleagues. It is a clear example of the responsible and constructive approach being suggested by our private business community in response to one of our Nation's most serious economic ills—capital inadequacy.

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

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

FINANCING FUTURE INDUSTRIAL CAPITAL REQUIREMENTS

The most insidious impact of inflation is that the capital formation necessary for industry to meet rapidly escalating investment demands is seriously jeopardized. To overcome capacity shortages, to keep American industry competitive with foreign firms, and to avoid the erosion of the value of stockholder investments in the securities of industrial concerns in this country, the seriousness of this problem must be recognized promptly and dealt with directly.

In the last 12 years, U.S. industry has raised and invested 1.5 trillion dollars. It has been estimated that in the next 12 years industry requirements in this country will be $4.5 trillion—and this to support no more than a 4% future growth annually in economic activity. Our U.S. tax policy will play a critical role in determining industry's ability to "self-generate" these funds which are necessary to replace worn out plants and provide the investment necessary to expand capacity and thereby overcome the production-limited environment that contributes so significantly to inflation. The challenge is clear!

Current depreciation rates (including accelerated depreciation) and the investment tax credit are dramatically inadequate for funds established in this way to play a major role in capital accumulation requirements of this magnitude. In addition, our U.S. depreciation regulations are substantially less encouraging to industry in this country than overseas regulations affecting our foreign competition.

While we in the United States are permitted to recover 66% of our investment in the first three years, France provides 90% recovery, Sweden 96%, and England and Canada a full 100%.

The rapid change over the last year in the rate of inflation is compounding our problem and compounding it rapidly. In FMC, for example, based upon inflation rates that have already been in existence since our present plant and equipment has been built and installed, our depreciation rates should be increased by 27% *if we assume no future inflation until* these investments must be replaced. If we assume a 5% future inflation rate—which seems modest in today's environment—the comparable rate at which we should be allowed tax-free accumulation of replacement funds should be increased 87% or if we assume a rate of 8%, we would need to increase our rate of funds accumulation by 147%! And this is merely to keep our existing plants in good running order. It does not provide for expansion!

"Inadequate capital cost allowance" is a sterile and drab subject, remote from the lives of most. The decisions that need to be made in Washington are as much, if not more, political than economical. The actions needed won't bring short-term, highly visible results but failure to make objective and difficult decisions on the part of those responsible for tax policy will touch the lives of all of us. Insufficient capital will inhibit U.S. industry, including FMC, from the growth justifiably expected by stockholders; it will prevent the expansion necessary to increase employment; and it will guarantee the continuation of a shortage environment that will prevent us from coming to grips with inflation.

Will appropriate tax legislation by itself solve our inflation problem? Of course not! But the significance of depreciation policy is misunderstood by many and under appreciated by others. Capital recapture whether via the mechanism of normal depreciation allowance, accelerated depreciation or the investment tax credit is not a business "boondoggle." In a period of high inflation such as we are experiencing, it is critical to industry survival. I urge you to join with me in redirecting our Federal tax policy toward encouraging appropriate capital formation so critically needed to expand the output of goods and services.

FOOD AID FOR NEEDY NATIONS

Mr. HUMPHREY. Mr. President, on November 22, Rev. Theodore M. Hesburgh, president of Notre Dame University and chairman of the board of the Overseas Development Council, sent a letter to President Ford urging that the

United States immediately increase its food aid by 2 million tons.

The letter also urged that an additional 2 million tons be provided next spring and summer "contingent on matching commitments by other donor countries."

Mr. President, this is a very moving letter which was supported by an impressive list of people. It pointed out that the time for action is growing short as food is exported and the leadtime for shipping disappears.

The letter also indicated that many Americans are prepared to make sacrifices if the leadership is forthcoming.

While I was in Rome to participate in the World Food Conference, I and other members of the congressional delegation attempted to have the Administration announce that the United States would increase its food aid by a million tons to a total of 4.3 million tons.

This recommendation was rejected although Secretary Butz freely conceded that we would probably provide at least the 4.3 million tons.

I still cannot understand why our Government is so afraid of showing some compassion and taking credit for what we are already doing.

On November 29, our Government participated in the followup meeting of the major food exporting and importing nations concerning the food aid needed to avert famine.

It was agreed at the meeting that 7.5 million tons are needed between now and July 1974, and this quantity is presently available.

However, the funding required is not in sight.

The Hesburgh letter suggested ways to find the funds to enable the United States to provide a fair share of the amount needed. At no point was there any idea that the United States alone should meet this need.

Gov. Averell Harriman, in a supporting telegram, pointed out the strong leadership exercised by President Truman in 1947 in helping avoid widespread famine in Europe.

I shall continue to do all that I can to encourage our government to be responsive.

Mr. President, I ask unanimous consent that the letter and the partial list of supporters be printed in the RECORD.

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

NOVEMBER 22, 1974.

Hon. GERALD R. FORD,
President of the United States, The White, House, Washington, D.C.

DEAR MR. PRESIDENT: Record food prices, depleted reserve stocks, and a disappointing harvest have raised the immediate spectre of famine for millions. I am writing to urge that the United States initiate immediately the shipment of 2 million tons of U.S. food aid additional to the amount now programmed to alleviate present conditions of critical starvation, and also plan another 2 million ton increase for next spring and summer, contingent on matching commitments by other donor countries. I and the many individuals and institutions joining me in this appeal to you pledge our support for whatever measures you think necessary to reduce food consumption in the United States to prevent these shipments from having an inflationary impact.

The World Food Conference in Rome has ended with really quite excellent plans for addressing the world food problem in the middle and longer term. If the United States continues to provide leadership and if other countries take seriously the U.S. intentions stated so eloquently in Rome on your behalf by Secretary Kissinger, the world could create a successful new approach to hunger—mankind's historic scourge—that would stand as a great monument to the creative leadership of your Administration.

This achievement will not be possible, however, if the United States and other relatively favored nations do not respond more effectively to the present food crisis. Despite the universal agreement in Rome that at least 5 to 6 million tons of grain in addition to the amounts now programmed and committed need to be shipped to the most severely affected poor countries, the World Food Conference ended without a decision to meet these already recognized minimum survival needs.

The world's food supply for the coming year is inadequate to meet the global demand, and consumption will therefore be reduced in any case. The stark choice the international community must now address is: Will we act to ensure that the minimum survival needs of the impoverished are met? Or will price serve as the global rationer, dooming millions to further misery and death?

We believe that the 5 to 6 million ton shortfall in grain availability before the next harvest in May and June cannot be met without a substantially larger and more immediate action than the U.S. Government has yet indicated to the American public, and are greatly concerned that the U.S. Government may not respond in time to avert hundreds of thousands and possibly millions of needless deaths over the next year. The immediate food problem appears to be seriously aggravated during each week that passes without a major response by the United States. Exporting country stocks are daily being depleted—in many cases for relatively non-essential uses—and will not be replenished until the June wheat harvest in the case of the United States and the fall harvest in the case of Canada. Furthermore, if additional food is to be provided without having an inflationary impact, there will need to be some changes in present planned use and reduction of consumption. The longer we postpone savings through consumption reduction, the greater the reduction that will be needed—and, therefore, the more difficult. Finally, the most acute need in South Asia will be in late winter and spring of 1975—before the June harvest—when existing stocks will have been depleted. It is imperative, therefore, that shipments begin as soon as possible, starting no later than next January.

We believe the crucial decisions on the scale of American response should be made within the next few weeks, and preferably before November 29, when the major grain exporting nations are scheduled to meet in Rome with the poor countries most seriously affected by import shortfalls. The United States—which, after all, earned $6 billion more from grain price increases last year—should not further postpone action in the hope of persuading other industrial and OPEC countries to move simultaneously; Canada and the Euroepan Community have already acted and we should likewise move now.

We understand, Mr. President, that you can make these shipments under your existing authorities without need of further prior legislative action by Congress, and we further understand that the Senate—in Resolution 329, sponsored by a bipartisan group of 38 Senators and passed in August—has also urged that you increase food aid this year by the amount we, too, are recommending.

We recognize that it will not be easy to provide an additional 4 million tons of food relief in the current crop year, which represents a doubling of the present announced level of the Food for Peace Program. But the alternative is not morally acceptable. The starvation of millions, while an even greater number are eating more than is healthy, will be worse than a moral travesty; the spread of famine and misery guarantee a degree of economic and political instability potentially disastrous for all in an interdependent world.

Moreover, the failure to muster up the political will to prevent a massive human catastrophe will further undermine the faith of citizens everywhere in the capacity of the world to cope with the problems it now faces. Such an indication that the world's problems had indeed become unmanageable would have dangerous psychological consequences everywhere.

Adding $800 million to the federal budget also will obviously be difficult at a time when large budget cuts have already been initiated. There is no escaping the question of priorities. We must ask whether the threat to human security and well-being posed by the food crisis does not outweigh some of the more traditionally recognized security threats—and whether a budgetary adjustment is not appropriate. Humans who die prematurely cannot be resurrected; military hardware which has been delayed in procurement can be acquired in a later year.

The anticipated buildup of 600,000-800,000 tons in U.S. rice reserve stocks can be tapped. Negotiated delays in commercial export deliveries to Europe, Japan, Iran, and the U.S.S.R. are another possible source of additional grain. They are not facing starvation; indeed, Russia wants grain to substantially increase its feeding of livestock. Finally, a selective program to reduce food waste and reduce American consumer demands for grain could be another element in the needed strategy. In a telegram of support which I enclose, Governor Averell Harriman provides a useful reminder that in 1947, under even more difficult conditions, President Truman called on Americans to conserve 2½ million tons of grain to stave off famine in Europe during the winter of 1947. President Truman then called on Americans to take many specific actions to save food, including meatless days, saving a slice of bread a day, and closing distilleries for 60 days. Today our total food supply is far greater and Americans consume far more than they did in 1947. The emergency relief now required could be made available without an inflationary impact through far less drastic measures today—if we have the necessary national political will and government leadership.

Many Americans want to participate in a major global response to halt the epidemic of rising malnutrition and starvation in the world. This was illustrated graphically on the Thursday before Thanksgiving, while you were in South Korea, when hundreds of thousands of university students fasted as a food-saving and money-raising gesture. But Americans can participate effectively only following your leadership. This was the central thrust of the petitions addressed to you with 260,000 signatures, including many from Grand Rapids, which Senator Percy presented to Ambassador Scali on October 31.

Among the many leading citizens and private organizations joining me in pledging our full support to whatever steps you, Mr. President, urge upon the American public in order to make more grain available for food this year, are the following: Dr. W. Sterling Cary and Dr. Claire Randall, Presi-

dent and General Secretary, respectively, of the National Council of Churches; Terence Cardinal Cooke, Archbishop of New York, for the National Conference of Catholic Bishops; Rabbi Marc Tanenbaum, National Director of Interreligious Affairs of the American Jewish Committee; Dr. Eugene Carson Blake, President, Bread for the World, and former General Secretary, World Council of Churches; Presiding Bishop Allin of the Episcopal Church; Dr. Charles Kraemer, Chairman, General Executive Board of the Presbyterian Church of the U.S.A.; William P. Thompson, State Clerk, United Presbyterian Church in the U.S.A.; Herbert J. Waters, Chairman of the World Hunger Action Coalition, and President of the American Freedom from Hunger Foundation; Mayor Wes Uhlman of Seattle; Mayor Kenneth Gibson of Newark; Robert O. Anderson, Chairman of the Board of Atlantic Richfield; Chancellor John Caldwell, North Carolina State; Frank Goffio, Executive Director of CARE; Terry Herndon, Executive Secretary, National Education Association; Ruth C. Clusen, President, League of Women Voters; and Jean Mayer, Professor of Nutrition, Harvard University.

Among the myriad global problems that beset you today, Mr. President, certainly there can be no greater problem or opportunity than that of sustaining human life itself. We count our blessings at Thanksgiving and we look forward to Christmas joy in abundance. What greater moral uplift to our nation, following the disillusionments of Vietnam and Watergate, than a call to the humane imperative of helping our less fortunate brethren around the world as only we can. It is given to you, Mr. President, in a most unique way, to sound the call that will spell the difference between global disaster and new hope for millions. In helping others, we will, I believe, most powerfully help ourselves and restore our moral leadership in this very troubled world.

Very sincerely yours,

(Rev.) THEODORE M. HESBURGH, C.S.C.,
Chairman of the Board.

PARTIAL LIST OF RESPONDENTS TO WORLD HUNGER ACTION COALITION MAILGRAM ON FOOD AID

Kenneth A. Gibson, Mayor of Newark, New Jersey.

Ruth C. Clusen, President, League of Women Voters of the United States.

Bishop Edward E. Swanstrom, Executive Director, Catholic Relief Services, USCC.

Hyman Bookbinder, American Jewish Committee.

Michael Shower, Executive Director, World Federalists.

D. J. Karzag, Direct Relief Foundation, Santa Barbara, California.

George Gerardi, President, League for Economic Assistance and Development.

R. Adam De Baugh, Director and Editor, Center for the Study of Power and Peace.

AFRICARE

Anthony Lake, Executive Director, International Voluntary Service.

Aileen Gorman, Executive Director, National Consumer Congress.

Sister Francine Zeller, President, Leadership Conference of Women Religious.

Frank Goffio, Executive Director, CARE, Inc.

Clifflyn Bromling, Director, One World Project.

Most Rev. John Allin, Presiding Bishop, Episcopal Church.

Eugene Carson Blake, President, Bread for the World.

Terry Herndon, Executive Secretary, National Education Association.

Dr. Charles Kraemer, Chairman, General Executive Board, Presbyterian Church of the U.S.

Garven Hudgins, Director, National Association of State Universities and Landgrant Colleges.

Jean Mayer, Professor of Nutrition, Harvard University.

Social Action Division, Archdiocese of Cincinnati.

Mrs. Jean Eckstein, President, National Council of Catholic Laity.

Mr. James Leonard, President, UNA/USA.

Joseph Francis, SVD, President, Catholic Conference of Major Superiors of Men.

Sister Mary Bernita, RSM, Our Lady of Mercy Hospital, Cincinnati, Ohio.

Sister Natalie Lann, Monroeville, Pennsylvania.

Sisters of Notre Dame, Columbus, Ohio.

Jeremy Harrington, Cincinnati, Ohio.

Anna Mae Westerkamm, Cincinnati, Ohio.

Dominican Sisters of the Sick Poor, Cincinnati, Ohio.

Marjorie Vinal, Executive Director, World Affairs Council of Rhode Island.

Sister Mary Joseph, Community President, Glen Mary Sisters, Cincinnati, Ohio.

William F. Ryan and staff, Center of Concern.

Justice and Peace Center staff, Milwaukee, Wisconsin.

Dr. K. B. Rao, Executive Secretary, World University Service.

Sister Mary Adrian and Sisters of Mercy, Province of Cincinnati.

Anne and Jack MacFadyen, Pittsburgh, Pennsylvania.

Sister Joanne Seiser, Chicago, Illinois.

Sisters of Notre Dame, Chicago, Illinois.

Sisters of Notre Dame, Immaculate Conception Convent, Dayton, Ohio.

Sisters of Notre Dame, Immaculate Conception Convent, Dayton, Ohio.

Sisters of Notre Dame, Hamilton, Ohio.

John M. Eklund, President, Agricultural Cooperative Development International.

John T. Caldwell, Chancellor, North Carolina State University.

James A. Cogswell, Director, Task Force on Hunger, Presbyterian Church of the U.S.

Leon Shull, Executive Director, Americans for Democratic Action.

Robert F. Lewis, National Farmers Union.

William H. Sandweg, President, National Council of Catholic Men.

Mrs. G. Sam Zilly, President, National Council of Catholic Women.

Helen T. Meakin, Cincinnati, Ohio.

Sisters of Mercy, Social Action Conference, Cincinnati, Ohio.

Sister Elizabeth Lang, Cincinnati, Ohio.

Revs. Fabian Gurstle, Aidan Schaefer and Roman Pfalzer, OFM, Escanabe, Michigan.

Sister Elizabeth Cashman, Assistant Vicar for Religions, Archdiocese of Cincinnati, Ohio.

Sisters of Charity of Nazareth, Covington, Kentucky.

Faculty of Notre Dame Academy, Covington, Kentucky.

Sister Jermaine Conroy, General Counselor, Dominican Sisters of St. Mary of the Springs, Cincinnati, Ohio.

Barbara Bode—The Children's Foundation—Washington, D.C.

Paul Clifford—Student Advisory Committee on International Affairs, Washington—D.C.

Congregation of the Sisters of St. Joseph—Cincinnati, Ohio.

William Attwood—Newsday—Garden City, N.Y.

Social Action Committee, Sisters of Charity—Cincinnati, Ohio.

Mrs. Milton T. Smith—International President—B'Nai Brith Women—Washington—D.C.

Mary Rose Hensel—338 West 8th Avenue—Tarentum, Pa.

George Chauncey—Chairman—Washington Interreligious Task Force On Hunger—D.C.

William Cotter—President—African-American Institute—New York.

Edward C. Pomeroy—Exec. Director—American Assoc. of Colleges For Teacher Education Washington Office—United Presbyterian Church In The USA.

Ms. Mary K. Moore, Pittsburgh, Pa.

Concerned Students of Fontbonne Academy—Pittsburgh, Pa.

Sisters of Charity of Nazareth—Bellevue, Ky.

Helen and Ralph Holste—Cincinnati, Ohio.

Sisters of the Precious Blood—Sister Charmaine Grilliot—Dayton, Ohio.

Mrs. J. Thomas Cantwell—Cincinnati, Ohio.

Social Action Office Archdiocese of Cincinnati, Ohio.

The Sophomore Biology Students of NDHS For Girls—Chicago, Illinois.

Felician Sisters—Kensington, Pa.

Catherine Moorman—Milford, Ohio.

Sister Miriam Clare Heskamp—Sisters of St. Francis, Oldenburg, Indiana.

Very Rev. William Behringer, Provincial Superior Marianists of Ohio, Inc.

Jane and Amelia Walsh—Cincinnati, Ohio.

Sister Roberta Marie Doneth—Sisters of St. Francis—Tiffin, Ohio.

Fontbonne Academy High School—Bethel Park, Pa.

Sisters of Notre Dame—Cincinnati, Ohio.

Elizabeth Wilson—Iowa City, Iowa.

Sisters of the Good Shepherd—Cincinnati, Ohio.

Sara Akin, Phyllis Hannon, Rosemary Maguire—Ludow, Ky.

Arthur Diamond, Ed Keck, Caroline Humphrys, Rosemary Davis, Yvonne King, Judy Tensing of the St. Mark Gay Street Extension—Lancaster, Ohio.

The Maryknoll Fathers—Cincinnati, Ohio.

Sisters of Saint Joseph Fontbonne Convent—Bethel Park, Pa.

Mr. & Mrs. J. Robert Busam—Cincinnati, Ohio.

Holy Family Community—Dayton, Ohio.

Sister Joan Puls and Sister Regina Williams—Justice & Peace Center—Milwaukee, Wisc.

Nancy Wiley—Milford, Ohio.

Father Conleth Overman—Holy Cross Center, Cincinnati, Ohio.

Mrs. Norbert Roll—Milford, Ohio.

Sister Joan Groff & Sister Patrick Ann O'Connor—Cincinnati, Ohio.

Mary Boyd—Cincinnati, Ohio.

St. Andrew Parish—Rev. Robert J. Buschmiller—Milford, Ohio.

Sybil Smith, Executive Director—Vermont Council on World Affairs—Burlington, Vt.

Sister Mary Assunta Stang, S.C. President Sisters of Charity of Cincinnati, Ohio.

Mr. & Mrs. Edward Thimons—New Kensington, Pa.

Sister Jane Aucoin—New Orleans, La.

Mrs. Paul Niehaus—Cincinnati, Ohio.

Sisters of Notre Dame Summit Country Day School—Cincinnati, Ohio.

Dorothy Steinkamp—Cincinnati, Ohio.

Melvin C. Myers—Acting Exec. Director Pro Tem—Church World Service, N.Y.C.

Ann V. Cruz—Covington, Ky.

Sister Mary Catherine Hunt—President of the Sisters of Divine Providence—Kentucky St. Ann Convent—Melbourne, Ky.

Patricia Pieper—Cincinnati, Ohio.

Jim Goetsch, Friends of the Third World—Wayne, Indiana.

Rev. Leonard Foley and Rev. Sylas Oleksinski, Friar Hurst—Retreat House—Cincinnati, Ohio.

Helen Nordloh—Cincinnati, Ohio.

Sisters of Saint Joseph—Cincinnati, Ohio.

Chris Rayhle—Cincinnati, Ohio.

Sisters of Notre Dame—St. Rita Convent—Rockford, Illinois.

Mrs. William J. Niehaus—Cincinnati, Ohio.

Rev. Jovian Weigel—Cincinnati, Ohio.

Helen Moorman—Dayton, Ohio.
Lorraine M. Bittner—Pittsburgh, Pa.
Dorothy Hier—Chicago, Illinois.
Olga D. Steen—Cincinnati, Ohio.
Mrs. Joseph Klus—Cincinnati, Ohio.
Sisters of St. Dominick, St. Pius Convent, Toledo, Ohio.
Sister Rita Spalding, Ft. Thomas, Kentucky.
Mrs. Robert W. Puthoff, Hamilton, Ohio.
Sister Mary P. O'Connell, Cincinnati, Ohio.
Rev. John Civille, World Justice & Peace Commission, Archidocese of Cincinnati.
Sisters of Notre Dame, Covington, Ky.
Mae and Fred Neihaus, Neihaus Brothers—Cincinnati, Ohio.
Mr. & Mrs. Jame Burke—Pittsburgh, Pa.
Wes Uhlman, Mayor of Seattle.
John Wilson, Pittsburgh.
Mr. & Mrs. Pat Cleary.
Rev. G. A. Poynter, Superintendent, Dayton Area Catholic Schools.
Theresa Walsh, New York City.
Provincial Executive Board, Religious of the Sacred Heart of Mary, New York City.
Nancy Philipport, Mount St. Joseph, Cincinnati, Ohio.
Jean Eckstein, President, National Council of Catholic Laity.
Patricia Lacy, New York City.
Rev. Patrick Fenton, Butler Society of Justice, Butler, Pa.
I. Willeng, Executive Director, American Veterans Committee.
Father Jo Byers, World Hunger Committee, University of Pa.
Mr. & Mrs. J. Lammers, Covington, Ky.
Ad hoc Committee of 350 on behalf of MIT Community, Cambridge, Mass.

A MANAGEMENT PHILOSOPHY WORTH LOOKING AT

Mr. BROCK. Mr. President, today I invite my colleagues' attention to a recent article appearing in Commerce Today entitled "'Team Spirit' Results in Higher Productivity, Job Satisfaction."

This article is one of a series that describes recent innovative techniques to increase productivity of U.S. firms.

I would particularly like to note the growing recognition that the firm's human resources are vital to its productivity. The innovative techniques noted in this article are worth noting not only for their immediate effect but also for their long-term implications.

The R. G. Berry Co. has adopted a management philosophy that is well worth looking at. This management philosophy takes into account the human resource side of productivity. Other institutions organizations in Government facilities would do well to look into this philosophy as a means by which to increase productivity.

I ask unanimous consent that the important article referred to above be printed in the RECORD.

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

"TEAM SPIRIT" RESULTS IN HIGHER PRODUCTIVITY, JOB SATISFACTION

(NOTE.—This is the first of a continuing series of articles dealing with various approaches U.S. firms are employing to help increase their productivity. Prepared at the direction of Commerce Secretary Frederick B. Dent, the first five articles have been written by Betty Shelton, a White House Fellow assigned to the U.S. Department of Commerce. Miss Shelton recently visited industrial plants in different parts of the country selected because of their particularly interesting productivity programs. Interviews were conducted with management and workers alike to obtain as complete a picture as possible of the success of these programs. Commerce Today offers these articles as a sample of what large, medium and small-size firms in various industries can do to improve their productivity and ultimately the national economy. In addition to this first article on the R. G. Barry Corp., a Columbus, Ohio, footwear manufacturer, Miss Shelton's articles include The Detroit Edison Co., Sony Corporation of America, Donnelly Mirrors, Inc., and Honeywell, Inc.

One Ohio-based firm thinks it has found a key to improving employee morale and productivity in an old American concept—teamwork.

Gordon Zacks, president of R. G. Barry Corp., says that "people are the most important resource of the company," and has committed the footwear firm to a management philosophy emphasizing that:

Most people will return trust;

There is a creative spot in everyone;

Workers like to take pride in their product; and

People are willing to assume responsibility and live up to their commitments.

Sound a trifle too starry-eyed for a cynical age? Well, it passes the cynic's ultimate test—it works!

Based on the above assumptions, over the past five years the company has introduced team management in three of its five plants, creating, in Zacks' words, "conditions under which most of the people, most of the time, care enough to do what has to be done for the enterprise to succeed."

Under the team approach, absenteeism and personnel turnover declined by 50 percent; products sent back for reworking have been cut by two-thirds, downtime diminished significantly; training costs are down 50 percent, and total output is up 35 percent. Wages also increased 35 percent from 1969 to 1973.

BETTER THAN EXPECTED

Interestingly, Zacks also reports that the company did not anticipate the amount of real savings nor the quality effect of the changeover.

In 1969 the company began its first conversion, that of its 300-employee Columbus, Ohio, plant from an individual incentive task-oriented system to a "team process." Surveys were taken of all employees before the conversion process to determine the strengths and weaknesses of the former task-oriented production process.

Production workers were organized into 32 teams consisting of 9-12 persons. Each team manufactures the product from cut stock to finished product. During the conversion, time clocks were removed, some supervisors changed, a number of work processes reduced and a straight hourly wage instituted. Workers also had the opportunity to influence the methods used and the quality and quantity of team production. In addition, wage rates are reviewed every 90 days.

The dollar investment in the conversion was $250,000, which went toward management training, additional machinery and alterations to the plant.

The initial results were discouraging. Absenteeism and turnover increased. Surveys conducted at five-week intervals to ascertain the attitudes and perceptions of the employees to the changes showed that the company had failed to anticipate the magnitude of their impact on the employees, especially the first line supervisors.

"Under the old system supervisors were the solvers of problems, enforcers of production goals, auditors of quality, and the source of all official information," according to Bob Woodruff, corporate vice-president for human resources. "Summing it all up, they had power." Under the team concept, the supervisor's role became more directive and supportive.

Consultants were brought in from the Institute of Social Research at the University of Michigan to train the supervisors in communications, goal setting and problem-solving. This training produced results and the company has recouped its initial loss.

The firm's management found that the increased responsibility given to the teams led to better internal communications and more readiness to share ideas for improving operations. This sharing concept is reinforced at regularly held team conferences.

According to Gordon Zacks, the company has found that "if you create a good environment and are willing to share brainpower there is a tremendous reservoir to help you out-compete your competitors."

Indicative of this increased responsibility is the fact that plant employees made the final decision as to the location and exterior design of the new Columbus plant.

Conversations with workers on the line reveal that they are pleased with the new system. Margaret Billingsley, a machine operator, put it this way, "Before, everyone was on his own and no one cared about helping their fellow employee. Now everyone is dependent upon everybody else. I know in my case I think twice before taking a day off because I know if I do it will affect my team."

Shirley Parks, a quality control worker, put it another way: "Previously nobody wanted to take the responsibility for an error. Under the old system where 40 women might be performing the same task on one line, it was hard to tell who was being sloppy. Now, with only 8–12 people producing a complete product and only one or two individuals doing the same process, it is easier to keep track of who did what."

MORE CHANGES PLANNED

The company began to convert its 500-employee Goldsboro Plant in 1971, and by 1973 the entire plant was changed from task-oriented production to the team process. Two key lessons had been learned from the Columbus experience, and thus the conversion went smoothly: (1) several pilot operations were observed for a year to determine the best possible team process system, and (2) training was given to supervisors prior to the changeover, to help them understand their role in a team system. As a result there was little disruption to the manufacturing process. In the first year of full conversion, productivity is expected to increase by between 10 and 15 percent.

Jacque Fisher, former manager of the Columbus Plant and now a divisional vice president, is considering further changes. There is a possibility that all workers will become salaried; employees will become more involved in helping to cost-out new products; and the organizational structure may be re-examined to seek ways of reducing the layers between production teams and managers.

One innovation which was tried and discarded may possibly be revived, that of having each team hire its own replacements.

The production workers are not the only ones under the team concept. This approach also reaches up to the executive office. In fact it was here that the team approach was first used. In 1965, Gordon Zacks formed the President's Advisory Council to provide him with strong staff support. It included 24 of the top people in the company. This group began to explore what type of management system would be most beneficial to the company and its employees.

Dr. Rensis Likert, author of "New Patterns of Management" was brought in as a consultant. Over a period of 19 months, the committee began to formulate a "management philosophy" built around trust. Zacks himself also began operating in a

more participative style and began to add items to the agenda.

He eventually formed an executive level team consisting of the top people from each functional area. Thus the team concept was born.

Aside from profit, liquidity, physical and proprietary resources responsibilities, managers at R. G. Barry are also accountable for human resources. Until 1969 there was no way to measure, over time, human resources. At that time it was decided that if people were so important the company should account for them as other assets—in dollar terms. A human resource accounting system was eventually designed which looked upon the recruitment, hiring, training and orientation costs of people as investments rather than expenses.

According to R. G. Barry's 1973 Annual Report. "The basic outlays in connection with acquiring and integrating new people are amortized over their expected tenure with the company. Investments made for training or development are amortized over a much shorter period of time. Total write-off of an individual's account occurs upon his departure from the company."

This system provides measurable data for decision-making in a number of key areas, such as personnel turnover cost, the cost benefits between different types of development programs, the real costs of relocating plants in terms of human resources, the real start-up cost to open a new plant, and forecasting personnel needs more effectively.

Is the team concept the ultimate answer to flagging employee enthusiasm for R. G. Barry Corp.? Not necessarily. Gordon Zacks stresses that he is selling a management philosophy rather than a particular approach, such as the team process. If a better system comes along, he'll adopt it.

AMERICAN AGRICULTURE

Mr. NUNN. Mr. President, I am pleased to place in the RECORD today a significant speech on American agriculture which my colleague from Georgia, Senator HERMAN TALMADGE, intended to deliver to the recent Georgia Farm Bureau Convention.

Although Senator TALMADGE was ill and unable to deliver the speech in person, it is an important speech and says things about agriculture that ought to be said.

Because it is such an effective speech by the chairman of the Agriculture and Forestry Committee, I commend it to your reading.

I ask unanimous consent that the address by Senator TALMADGE be printed in the RECORD.

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

AMERICAN AGRICULTURE

(By Herman Talmadge)

It is a special privilege for me to be here today with my friends of the Georgia Farm Bureau to take part in your Annual Convention.

This has been an extremely difficult and trying year for farmers in Georgia and throughout the nation. You have had to face problem after problem—shortages of fertilizer and fuel . . . sharply escalating production costs that in some materials you have seen go up almost daily . . . and declining prices for several commodities, that have fallen below what it actually costs to produce them.

It is a tribute to the basic sturdiness and inherent strength of farm people that you have managed to cope with these problems as well as you have.

You have proven once again that agriculture is the back-bone strength of America.

It is high time that more people—especially in Washington, D.C.—recognize that fact.

I for one intend to spend a good part of my time next year seeing that they do.

This has been a critical year for agriculture. I can assure you that the problems of the Georgia farmer have been vigorously and ably presented in Washington through the Georgia Farm Bureau, by Emmett Reynolds, and other farm leaders.

I particularly want to commend the Georgia Farm Bureau for organizing the commodity flight to Washington back in October. You presented our Georgia delegation with blunt facts and figures that document the devastating increase in production costs in 1974.

Anything you can do through the Farm Bureau, collectively or individually, to focus attention and dramatize the farmer's problems is valuable and welcome.

I know I can speak for the rest of the delegation in saying that we are with you all the way.

As Chairman of the Senate Committee on Agriculture and Forestry, I had your information published in full in the Congressional Record. Hopefully, it was read by Members of Congress from urban areas who need this information. Too many of them have little knowledge—and even less sympathy—for the problems of farmers.

It used to be that farmers had a strong voice in Congress. They don't anymore. This is regrettable because agriculture remains this country's largest and most important industry.

What our city friends too often overlook is that if agriculture fails, there will not be enough food and fiber to go around.

Everyone suffers, rural and urban, rich and poor.

No one has yet found a substitute for agriculture. They never will. Only farmers produce food.

I have also used your information in discussion with the people of the U.S. Department of Agriculture. I hope that did some good. But, I make no predictions any more about the present occupants of high positions at U.S.D.A.

I can promise this: I intend to see how well Earl Butz and his people have done their homework when they come before my Committee early next year.

I hope they come prepared.

Today our nation and much of the world are caught in the grip of a deepening economic crisis. Even President Ford with his famous candor finally acknowledged a few days ago that we are now in a recession.

With all due respect, this came as no surprise to many people. I'm certain it was no surprise to Georgia farm families, many of whom have been caught in a vicious cost-price squeeze for a long time.

More and more the word depression, with all of its ominous overtones, is being used to describe our present situation.

But whatever we are in . . . whether a recession or a depression . . . it is very uneven.

The economy is experiencing rampant inflation. At the same time, production is declining.

We have sectors that definitely are in a depression, for example the housing industry.

On the other hand, some industries continue to set record profits, such as oil and steel.

In spite of continuing high corporate profits generally, Wall Street is the gloomiest since the great crash of 1929. While wage settlements for selected industries are setting records, unemployment is rising to alarming levels. This means mounting hardship for working people, and a cutback in purchases of consumer goods.

In agriculture we have a similar situation.

The entire livestock industry is on the brink of bankruptcy. Yet some crops—especially grains—are experiencing record prices.

Cotton is down sharply from a year ago, while peanut farmers have had a reasonably good year.

Such extremes cannot continue. Our economy is too highly integrated for economic failure in one area not to have an adverse impact on others.

What is needed . . . and needed now . . . is strong, decisive action in Washington. We must turn the economy around and get the country moving forward again.

I can speak only for Herman Talmadge. But I promise you, in the Senate, there will be action on farm problems.

I have called for a complete re-assessment by the Senate Committee on Agriculture and Forestry of current farm programs.

As a first step, we will develop an economy farm bill to be entitled, "The Agriculture and Anti-Depression Act of 1975."

This will be the first order of business of my Committee when the new Congress convenes next month.

The bill we develop next year must substantially raise target prices for cotton, wheat, corn, and feed grains.

As a minimum, I would like to see a target price of 52 cents per pound for cotton . . . $3.00 a bushel for wheat . . . and $2.00 a bushel for corn.

I shall insist that the emergency bill also contain an "escalator clause," to adjust target prices upward to meet rising production costs effective with the 1975 crops.

The target prices that Congress provided in the Farm Act of 1973 are totally inadequate.

The bill my Committee wrote, and which the Senate approved last year, provided substantially higher target prices, as well as an "escalator clause."

However, the threat of Presidential veto forced a compromise in order to have a Farm Bill in 1973.

This time I hope the President and the Secretary of Agriculture will take a more realistic position on farm problems.

President Ford has called for all-out farm production in 1975. This must be achieved to help break the inflationary spiral. But . . . simple justice demands that farmers be provided reasonable income protection in return for the high risk they must shoulder, if higher production goals are to be met.

I will do all I can to assure the farmer of economic justice.

Another action that I am initiating is legislation to assure adequate supplies of the materials for the production of crops and livestock.

The farmer must be assured of getting the fuel, fertilizer, and chemicals he needs, in the amount he needs . . . and when he needs them.

A third major area in which I will be active in the coming year, as in the past years, is in the protection of our peanut and tobacco farmers.

The Secretary of Agriculture is determined to destroy the present peanut program if he can. He has also been less than friendly on occasion to the existing tobacco program.

Both programs are extremely important to Georgia agriculture. Both are working well at the present time.

The tobacco program costs the government nothing. The cost of the peanut program has been reduced to a minimal level.

Thus far we have been successful in thwarting the Secretary's efforts to destroy these programs.

I for one will continue to fight every effort from any source to remove price protection from our peanut and tobacco farmers.

Peanuts are Georgia's number one crop in terms of farm income, and in most years tobacco is number two.

The people of Georgia did not send me to Washington to sit idly by and see these pro-

grams destroyed. I will fight every step of the way.

Despite all the problems and adversities that plague agriculture, there are some bright areas.

American agriculture is far and away the most efficient and most productive in the world. It continues as our nation's most productive economic sector.

Farm families today account for only about 4 percent of the total U.S. population. Yet—in spite of economic adversities, uncertainties of weather and periodic epidemics of disease—they continue to increase production and provide enough food and fiber to feed and clothe 210 million Americans and millions more all across the world.

Make no mistake about it. At no time since immediately following World War II, has the high productivity of the American farmer been of such critical importance to the United States and the world.

U.S. agriculture today accounts for nearly all the soybeans, about half of the feed grains, and a third of the wheat and rice in international trade . . . and, agricultural products are to the United States what oil is to the Middle East.

The export market is a vital outlet for our farm products. It is also tremendously important in helping to maintain our trade balance, which is so badly strained by the unconscionable increase in petroleum prices by the oil-producing nations.

What we have to sell to the world is more precious than oil. It is food.

I do not advocate using American food and fiber to take unfair advantage of a hungry world, as the sheiks and shahs have done with their oil.

Nor did it take a world food conference in Rome for the American people to recognize that we have an obligation to share our abundance with starving people.

We have always done our share, and more. We will continue to do so.

We acknowledge a need and desire to supply food and fiber to the world. But the American farmer cannot be expected to do so at give-away prices.

If we call upon our farmers for all-out production to meet domestic and world needs, we must provide them with adequate price and income protection.

A sound U.S. agricultural policy is critically needed to help pull the nation out of its economic tailspin.

But it must be based on stable markets and fair prices.

Congressional approval of such a policy will not come easily. Fewer and fewer of our people and their representatives in Washington know which end of the cow to approach for milk.

But I believe we have a chance now to convince them their well-being is affected by how well American agriculture is producing, and how sound American agriculture is.

This is the task ahead.

Farmers must make their voices heard.

The next Congress has an opportunity to win a place in history by doing more lasting good for American agriculture than any since the 1930's.

I for one will give my best to meet the challenge, and to see that farmers, at long last, are admitted to full partnership in the United States' economy.

As you know, the problems facing agriculture are only a part of our overall economic crisis.

I must say that I am not optimistic about the lame-duck Congress now in session. I don't think it has either the will, or the ability, or the time, to adequately cope with the economy.

However, the new Congress which will convene in January must confront inflation head-on. It must recognize it as a severe threat to national security.

The new Congress must start laying the foundation for rebuilding the United States' economy.

Congress cannot make miracles. Inflation and all of its attendant problems have been a long time coming . . . they will be a long time in being resolved.

Nonetheless, the Congress must make a beginning. It must stop talking . . . stop studying . . . stop complaining . . . and start acting.

The war against inflation is not going to be won by summit conferences at the swank Washington Hilton Hotel. It will not be won by blue-ribbon panels holding coffee sessions all over the country.

The battlefield for the war against inflation is Congress. It is Congress which has the power to act. Because it is responsible to the people, Congress has the duty to act.

In the years immediately following World War II, the United States was the strongest and most prosperous nation in the world.

We undertook to rebuild nations devastated by war, and we did.

We embarked on a policy of Communist containment, which cost billions of dollars for military assistance all over the world.

We also poured billions upon billions of dollars abroad to countries struggling to survive in their newly acquired freedom from colonialism.

The United States ran up a foreign aid tab of some $200 billion, including interest we paid on money we had to borrow before we could give it away.

At the same time, we devised grandiose new spending programs here at home. It was as if we could make everyone healthy, wealthy and wise by the enactment of a new spending program.

Through the "Fair Deal" of President Truman . . . the era of so-called "Peace and Prosperity" of President Eisenhower . . . on through the "Great Society" of President Johnson . . . plus the Nixon deficits of more than $100 billion in just five years . . . the United States' government has been piling spending, on top of spending, on top of spending.

In this time the United States allowed itself to get bogged down in two wars. We were deceived by a policy of guns and butter, as if there were no limits to the financial resources of the United States.

There was little thought to the day of reckoning, that sooner or later would have to come.

That day of reckoning is now here.

Our wealth has been dissipated. Our strength and national integrity has been undermined.

Our leadership in the community of nations has been reduced. The confidence of the American people in their own government has been made a mockery.

We are in the grip of an economic recession more severe than anything this nation has seen since the 1930's.

The time has come to lay it on the line. We are in a fight for economic survival.

It will take time. But we will win the fight. First, we are going to have to get back to some fundamentals in government. The lesson is simple.

The first fundamental we must recognize is this fact: Neither a nation, nor a business, nor an individual can spend itself rich.

A nation cannot open its own Treasury to all the world. It cannot undertake to finance the health, welfare, social, and military needs of virtually every other nation on Earth, and expect at the same time to keep its own house in order.

No nation, not even the United States for all its power and resources, can spread itself that far and wide.

We do not have the influence nor the know-how—there aren't that many dollars or that much gold in Fort Knox—to make other nations of the world over in our own image. We ought not to try.

We do not have the wherewithal . . . and the American worker ought not to be taxed into the poorhouse, so the federal government can spread its largess from Afghanistan to Zambia.

It is high time we stopped trying to be all things to all the world.

It is high time we quit trying to play Santa Claus to the world.

It is high time we stopped trying to be policeman for the world.

It is high time we stopped trying to be banker for the world.

I submit that the first responsibility for the United States' government is to look after the United States' people.

Down at the State Department, we have a desk for just about every nation in the world that is on duty day and night. I have long maintained that what we need down there is a United States' desk that will work day and night for the American people.

The first three words of the Constitution of the United States are very clear. They are very precise.

They say, "We, the people" do ordain and establish this government.

The Constitution does not say, "We, the Congress."

It does not say, "We, the Administration."

It does not say, "We, the Bureaucrats."

It does not say, "We, the Special Interest Groups."

The Constitution says, "We, the people," and that is exactly what it means.

Yet, people don't know their government anymore. They don't understand it. They don't trust it.

People regard government as some kind of monolithic monster, more to be feared than respected. In the past quarter of a century, government has been growing more . . . . spending more . . . . and encroaching more into the private lives and businesses of individual citizens, than throughout all the history of our Republic put together.

It has levied taxation almost to the point of confiscation. It has persisted in a policy of spending money we don't have for programs we don't need.

In recent years, government has been trying to drown business in a sea of paper work . . . . regulation . . . . and arbitrary dictation by some faceless bureaucrat in Washington who has never been elected to public office in his life.

We need to get government out of business, and to get more business in government.

We need to encourage the creation of more productive jobs through every possible incentive.

We need to install more incentives to work . . . . instead of making it profitable for people not to work.

My hackles rise everytime somebody comes before Congress with a proposal for a guaranteed annual income, whether people do anything to earn it or not.

I assure you that so long as I am privileged to serve in the United States Senate, I will never vote to give one dollar of your hard-earned money to people who are able, but unwilling, to work.

Also, the President need not waste his time . . . . the Congress' time . . . . or insult the American people by trying to slap them with a 5 percent surtax.

It is totally unrealistic to expect the average American workingman and woman to pay more taxes at a time when they are having great difficulty in making ends meet because of the inflationary spiral.

That proposal need not even be brought before Congress. If it is, it will never get out of Congress . . . . not with my vote, anyway.

The American people are prepared to sacrifice. They already have been doing so. They

will do more, as the seriousness of the economy may require.

The American people can be relied upon to do their part. But before being called upon to tighten their own belts, they have every right to demand that the government stop wasting money . . . . stop cheating working couple of their earnings and the elderly of their savings . . . . and stop kowtowing to foreigners.

Under present economic conditions, Congress can assume a mandate from the people. That mandate is that each and every budgetary request ought to be considered according to the following criteria:

(1) Can we afford it?

(2) Is it needed?

Inflation is eating away at the heart of America. The American people are having to fight for their own economic security and that of their children.

So long as this continues, I do not believe the next Congress ought to vote a single dollar that is not immediately essential or vital to the national interest.

SEA CITIZENSHIP

Mr. HATFIELD. Mr. President, today, Human Rights Day, I would like to bring to the attention of my colleagues in the Senate and my fellow Americans everywhere the formation of an international organization that will be devoted to the stewardship of the sea. Like the Earth Society, which founded Earth Day and sought to heighten awareness among our citizenry for the environmental destruction going on in our land, the Sea Citizen Organization will seek to focus our attention on an environmental matter that should be of direct concern to us all—the threat to the global sea and to the stake each one of us has in the resources of the sea.

The founding principle of the Sea Citizen Organization is the affirmation that the world ocean is the common heritage of mankind, and not the special province of the coastal nations or those business enterprises most technologically able to exploit the resources of the sea. We all own the sea. We all have a tremendous stake in its future. We, the people of the world, have a right to demand responsible management of the sea resources.

The Sea Citizen Organization will promote formation of an international sea authority which will establish the kind of guidelines that will insure the access of future generations to the bounties of the sea. Without coordinated international attention, the ocean and its resources will become despoiled. This is already happening. Sea Citizens will try to sound alarms before it is too late. They will try to focus public pressure on governments and corporations to stop destructive exploitation of the sea.

Nations are failing to control the pollution that threatens the estuaries and shallow coastal waters where sea life is most abundant and where the reproductive cycle of many fish and other sea animals is carried out. Coastal countries are failing to stop the destruction of natural wetlands that support sea birds and shellfish. The fishing fleets of many nations are overtaking the ability of many sea species to regenerate. It is clear that these problems are global in scope and need cooperative multinational solutions.

I vividly recall the testimony of Thor Heyerdahl before the Senate Commerce Committee following his *Ra I* and *Ra II* voyages several years ago. He demonstrated in those Atlantic expeditions, and in the Pacific *Kon Tiki* expedition before them, that our concept of "territorial water" is very mistaken. The world ocean, he said, is a large sink with no drain. Into the sink flows most of the world's pollution, and none of it leaves. It only swirls around with the ocean currents that ultimately distribute it to all reaches of the global sea. Pollution dumped into the "territorial waters" of Japan often reaches the west coast of the United States; Moroccan pollution reaches the Caribbean, as *Ra II* demonstrated; Peruvian pollution reaches Polynesia, as *Kon Tiki* demonstrated. The inescapable conclusion is that whatever one nation does with its "territorial waters" affects other nations, other people, and, in fact, the whole world ocean. The people of the world who fear for the future of the ocean must somehow influence these countries' governments, and the Sea Citizen Organization affords them the opportunity.

The members of the Sea Citizen Organizing Committee are Mr. John McConnell, founder and president of the Earth Society; His Excellency Dr. Arvid Pardo, former chairman of the U.N. Seabed Committee; Mr. Harold Taylor, former president of Sarah Lawrence College and chairman of the U.S. Committee for the United Nations University; Mr. Frank Braynard, general manager of Operation Sail '76 and author of 11 books on the sea; Ms. Louise Eggleston, former president of the International Literacy Foundation; and myself. Today we are presenting the first Sea Citizen Certificate to a young student of the United Nations International School at a ceremony in New York.

Mr. President, I ask unanimous consent to have the Sea Citizen Declaration printed in the RECORD following my remarks. I urge all who can subscribe to the principles of this declaration to support this organization and become Citizens of the Sea.

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

SEA CITIZEN DECLARATION

(Statement by Sea Citizen Organizing Committee)

We affirm that the global Sea, the common heritage of Mankind, and the last refuge from the multitude of national territorial restraints, should be protected and made freely available to the present and future people of Earth, in order that the bonds of spirit engendered by the Sea may bring understanding that will mitigate the divisions found on land.

Indeed, ancient beliefs in the brotherhood of those who went down to the Sea, their fierce love of freedom and tradition of freedom of the seas, are a common bond between ancient and modern sailors, fishermen, those who now explore the ocean depths, and Sea Citizens.

We urge action by the United Nations, and by all concerned organizations, to protect the Sea from man-made pollution; to protect its great whales and porpoises, its many-hued fish, shellfish and plants, its tiny organisms, and multiform varieties of life which for billions of years, borne by its currents, enjoyed the marine environment on which the whole web of life on Earth depends.

We urge education, developmental guidelines and essential environmental regulations be provided by the United Nations to encourage careful stewardship and management: in the harvesting of fish, Sea plants and other marine sources of protein for the world's hungry; in the protection of individuals and nations that depend on the Sea for their living; in obtaining oil and minerals from the sea-bed; in the operation of ships that ply the Sea. We support programs that will preserve for future generations the healing balm of clean salt water and blue seas, with their benefits to the mind, body and spirit, and to all who swim, sail, or fish.

We seek recognition of the Sea and its bed as the common heritage of mankind, and affirm that the borders of the Sea shall extend to the highwater mark and to the farthest reach of brackish waters in rivers, inlets and bays. Management of coastal resources (fish, seaweed, oil, minerals) should conform to guide-lines established by a global Sea authority. These guide-lines should set forth how nations can best take responsibility for the care and protection of adjoining tidelands. Efforts to expand national sovereignty further into the Sea by increasing navigation and economic boundaries, should be taken as an encroachment on the rights and property of all Sea Citizens, and all Earth's children, as a threat to the wholeness and future of the Sea.

We support the formation of an International Sea Authority, with appropriate safeguards to national and individual interests, which will safeguard the common heritage of the Sea for the benefit of all Earth's life, and which will license against appropriate fees major activities in the marine environment in order to prevent wasteful exploitation of resources and to minimize environmental deterioration. We support the efforts of the Earth Society to establish a clearing house of information for Sea Citizens.

We invite people everywhere to register with the Sea Citizen Organization and thereby to express their desire to protect the Sea and their claim to equal ownership and shares in the bounty of the Sea, the "common heritage of Mankind."

HUNGER IN THE UNITED STATES

Mr. HUMPHREY. Mr. President, the Wall Street Journal on December 8 included a very informative article by Harry B. Anderson on hunger in the United States.

This article is very timely because the administration has recently announced plans to reduce funding for the food stamp program by $325 million in fiscal year 1975.

The article details the frustrations of those people who rely on food stamps to supplement their income. While the program has reached the $4 billion level, many eligible people are not in the program.

Most people who do receive the food stamps have been hard hit by inflation, and they find it nearly impossible to make ends meet.

In a recent district court decision, the Department of Agriculture, which is responsible for administering the program, was found in violation of the law for not making an adequate outreach effort to locate those who are eligible to receive food stamps.

The Department also has been criticized for basing the program on an "economy diet plan" which many nutri-

tionists claim does not provide for an adequate diet.

I commend this informative article to the attention of this body. It is clear to me that the Department must take steps to improve this vital program. Making reductions in the value of the food stamps is hardly the right approach to the problem.

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

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

[From the Wall Street Journal, Dec. 8, 1974]

HUNGER PERSISTS IN UNITED STATES DESPITE PROGRESS MADE IN THE PAST 5 YEARS

(By Harry B. Anderson)

Hunger became a major issue in the United States in April 1967 when a Senate subcommittee said it discovered instances of acute starvation in the Delta area of Mississippi.

At first, the reports of conditions that were so reminiscent of the more familiar famines of Asia and Africa were greeted with skepticism and politicking. Within two years, however, it was established that some Americans were dying of hunger-related diseases with names like marasmus and kwashiorkor. On May 7, 1969, President Nixon urged a willing Congress to take steps to end hunger in America "for all time."

Since then, impressive gains have been made. In the past five years, the number of persons receiving federal food assistance has more than doubled to over 15 million. Participation in the federal food-stamp program, which allows poor people to buy food at reduced prices, has shot up 325% to 13.6 million, and the average food-stamp supplement has nearly doubled to $19.48 a month. In the same five years, the number of children receiving free or reduced-price school lunches grew to nearly nine million from four million, and the federal government began pilot programs to feed needy mothers, infants and old people.

Many experts agree that the U.S. has gone a long way in making sure that all its citizens can buy enough to eat.

But try telling that to 81-year-old Rosie Miller of Choctaw County, Miss., who supports a household of eight on $244.12 a month. After paying utility bills, insurance premiums and a monthly installment for furniture, Mrs. Miller has about $120 a month to spend on food. She recently complained that she and her family were constantly hungry: "The kids ask for cereal and I can't give it to them; they ask for milk regularly and I can't do it; they ask for meat regularly and I can't give it. I fill up with bread and water for breakfast." Until Nov. 11, Mrs. Miller and her family were denied food stamps.

ORDERS FROM THE JUDGE

The Miller family finally obtained relief when a federal judge ordered Choctaw County to begin selling food stamps. Until the judge's decision, Choctaw was one of the few remaining counties in the nation that refused to provide food relief to any of its citizens.

So until three weeks ago, the Millers were among millions of Americans who are eligible for food relief but who aren't being reached. Although some 15 million persons are receiving benefits, and Agriculture Department official says he "doesn't doubt" that the number of eligible persons is "somewhere in the 30 million range." Under a federal formula, a person is eligible for food relief if he can't buy a "nutritionally adequate diet" for a "reasonable" proportion of his income.

Agriculture Department officials complain that because of a lack of recent data, there isn't any way of knowing just how hungry America's hungry are. But it's certain that those who aren't receiving food relief are significantly worse off than they were five years ago—and that they have been hit harder by inflation than ordinary consumers. For instance, in the period from December 1970 to December 1973, the cost of a diet plan specially designed by the Agriculture Department for poor people rose 35.2%. During the same time, however, average welfare benefits rose only 14.7%, and salaries for workers who fall below the poverty level rose by less than 15%.

Food-stamp recipients aren't immune to inflation, either. Although the Agriculture Department is required by law to revise food-stamp benefits to reflect current costs, food-stamp recipients lately have been falling rapidly behind. Last July, for instance, officials determined that a family of four should be allowed to buy food stamps with a face value of $150. But by September the cost of the diet plan on which food-stamp benefits are based had risen to $155.10 for a family with two school-aged children.

CUTTING FOOD-STAMP FUNDS

And things will get worse next year. In this recent budget-cutting proposals, President Ford said he would trim the federal funds available for the food-stamp program. Beginning March 1, the poor will be required to pay more for their food stamps than they now are. This will save $325 million in fiscal 1975 and $650 million in fiscal 1976 from the $4 billion-a-year program. The move would be accomplished by Executive action under current law and wouldn't require legislation from Congress.

Most people can react to inflation and slimmer incomes by buying less-expensive kinds of food, but poor people often have no room to trade down. As a result, there is much greater demand for lower-cost foods, which helps boost their prices.

Moreover, partly because of bad weather and other factors, prices of the foods most likely to be bought by the poor have increased far more rapidly than prices of higher-grade food items. From December 1970 to March 1974, the average price of butter rose 8.9% while the average price of margarine increased by 63%. The price of porterhouse steak rose 38.2% in that period, but dried beans increased 256.3% in price. Many poor people can reduce their food costs only by eating less.

Some clues as to why more poor people aren't participating in food programs are evident from a visit to the flat, cotton-growing town of Gould, Ark., where 74-year-old Carrie Dilworth takes a visitor around her rundown neighborhood. Mrs. Dilworth, who has been active in civil-rights movements since the early 1930s, has to get by on about $3.20 a day after paying real-estate taxes, but she sometimes does odd jobs to supplement her income of public assistance and Social Security payments. Mrs. Dilworth won't participate in the food-stamp program. Her reasons are murky, but she says that she's afraid someone will cheat her.

The first stop is a ramshackle house where an obese woman sits wearily on the porch, dwarfing her chair. The woman says she would like to get food stamps, but she lacks both the energy and the transportation to travel the 20 miles to the nearest certification center in Star City. She says she often eats greens in which she occasionally boils a chicken leg. She used to eat a lot of rice before that became too expensive, she says.

Further on, Conzie Tyus is fixing himself a dinner of mashed potatoes and rice. He says that he wishes he had some gravy. Mr. Tyus is nearly blind with glaucoma. He says that he hasn't applied for food stamps because he wasn't aware that he was eligible. (He undoubtedly is.)

The last stop is the house of Emily Grayson, whose husband, a construction worker, is frequently out of work. When he is employed, Mrs. Grayson says, she and her three children eat reasonably well. When he isn't working, however, the family often runs out of food before the end of the month. When things get too bad, she says, she goes into debt at the local grocery store until her husband is working again. Mrs. Grayson also is without food stamps. She says the requirement that she buy a two-week allowance of stamps at one time ties up too much money so that she can't buy such things as medicine, soap and toilet paper.

Poverty experts cite a host of other reasons for nonparticipation in federal food programs; long lines and complicated forms to fill out at certification centers; language barriers; shame at being identified as poor; fear of being robbed. Many elderly people who are forced to subsist on meager stipends are ruled ineligible because they have managed to accumulate lifetime savings of more than $1,500.

But critics say there is one more important reason why food programs aren't reaching all the people they are supposed to reach: lack of effort by the Agriculture Department. According to Rodney Leonard, who headed the Agriculture Department's food-stamp program in 1967 and 1968 and who now runs the Community Nutritional Institute in Washington, D.C., "There's a total lack of outreach programs coupled with inadequate support in the processing of applications. There's no effort to link people with food stamps."

NO PUSH FROM WASHINGTON

P. Royal Shipp, who now runs the food-stamp program, replies that it is up to local governments to push for greater participation, not the federal government. He notes that the federal government is required to reimburse 62.5% of the money that counties spend on "outreach" programs, but he contends that Washington doesn't have authority to force counties to spend anything at all.

However, a federal district judge in Minneapolis apparently disagrees with Mr. Shipp. On Oct. 11, Judge Miles W. Lord ruled that the Agriculture Department violated the law when it failed to spend some $278 million appropriated by Congress for the food-stamp program during fiscal 1973 and ordered that the funds be used in the program instead of being returned to the Treasury. The Agriculture Department has indicated that it may appeal.

In his ruling the judge said that that the department's outreach efforts were "dismal." He added that if adequate effort had been made to acquaint poor people with the program, participation would have increased to the point that the department might well have had to spend the $278 million.

Mr. Shipp is correct, however, in that local governments have a lot to do with how many poor people receive benefits. Some counties have gone to great lengths to make food programs convenient, while others have adopted procedures exclude many of the needy, as the following incident illustrates:

On a Thursday morning in late summer, the Farm Workers Corp., a New Jersey organization that aids seasonal agricultural workers, dispatched a bus to bring 20 migrant workers into Vineland, N.J., for emergency food-stamp certification. Cold and rainy weather had ended the tomato season prematurely so that the migrants hadn't worked in a week or eaten in several days. The bus broke down enroute, and the workers didn't arrive in the Vineland welfare office until 3 p.m.

MAKING AN EXCEPTION

But it is at 3 p.m. on Thursdays that Vineland banks stop selling food stamps until 11 a.m. on the following Tuesdays, and it appeared that during that time the workers would go hungry. As the 20 migrants, including several small children, an old man and a pregnant woman, waited in the Vineland welfare office, Angelo Marti, a Farm Workers Corp. official, frantically called the local banks. Finally, he found one that was willing to make a special exception and workers ate after all.

Poverty experts suggest that federal food programs would probably work better if they operated in a vacuum. But, in fact, the poor are hard pressed in practically every aspect of their economic lives. Nancy Amidei, a Washington-based poverty consultant who has worked with the staff of the Senate Select Committee on Nutrition and Human Needs, notes that sometimes food purchases are deferred when the landlord is threatening or a family member falls sick. Even someone who is receiving food assistance might be forced to forgo food buying if other problems become too great.

The fragile economic status of many food-stamp recipients is illustrated by the plight of Mrs. Delores Nusen, an attractive 27-year-old mother of four, in Baltimore.

At the beginning of every month, Mrs. Nusen receives a check for $198 from the Maryland Department of Public Assistance. With this money she pays her monthly rent of $125 and her utility bill, which averages about $25. Mrs. Nusen is entitled to buy a total of $178 worth of food stamps (working out to about 40 cents a person for every meal) for a total monthly outlay of $60. But after paying her other bills, Mrs. Nusen doesn't have $60, so she elects to buy only half the stamps for $30. In the middle of the month she receives from her former husband a support payment of $38.80, which in theory will allow her to buy her remaining stamps.

THE WOES OF MRS. NUSEN

But things don't work according to theory for Mrs. Nusen. When she first applied for public assistance in September 1973, a computer error delayed her initial authorization to purchase food stamps for eight months. Mrs. Nusen remembers that period as one of constant begging and borrowing as she watched her children grow increasingly listless and irritable. By the time food stamps were finally approved, Mrs. Nusen had unpaid bills of about $200 and was on the verge of being evicted from her apartment.

Much of Mrs. Nusen's money now is used to pay back debts, and by the time she receives her support check she must either forgo her full allotment of food stamps or face the prospect of having her utilities cut off and being evicted. So, for the last two weeks of the month, her children virtually starve.

During the first two weeks, she says, she tries to cook nutritious, though modest, meals. But in the last half of the month, she must depend on gifts of milk and leftovers from the neighbors and what little money that she can borrow from her mother. On one recent afternoon, a neighbor dropped by with a quart of ice cream that the children greedily devoured with aluminum measuring spoons. Mrs. Nusen can't afford regular tableware.

Mrs. Nusen believes that she eventually could pull herself out of the hole, except for one thing more: Her authorization to buy food stamps often arrives late, sometimes as much as a week or two weeks, and she must draw on her assistance check to buy food without the additional purchasing power afforded by the stamps. This wipes out all the progress she has made in repaying her debts, she says.

IS DIET PLAN NUTRITIOUS?

Critics of the Agriculture Department contend that even most food-stamp recipients aren't receiving a completely nutritious diet because the benefits they receive are too small. The department bases its food-stamp payouts on the cost of the "Economy Diet Plan," a special diet designed by department nutritionists for use by low-income families. Agriculture officials claim that this diet plan, used properly, provides all the nutrients that a person needs.

However, both Pennsylvania and the City of New York have filed suit in federal court seeking to have the Agriculture Department increase the benefits it pays to food-stamp recipients. (The judge in the case found for the department, but that decision is being appealed.) In an affidavit, Harvard nutritionist Jean Mayer stated that "since at best the Economy Diet Plan is barely sufficient, the substitution of one item on the Economy Diet Plan for another food item would upset the delicate nutritional balance and provide the household with an inadequate nutritional diet."

Moreover, Robert L. Rizek, an Agriculture Department research director, admitted in a deposition that food-consumption surveys have shown that only about 10% of people who spend about the same amount for food as the Economy Diet Plan costs manage to obtain the full recommended daily allowance of nutrients. Less than 50% obtain even two-thirds of the recommended daily allowance, he said.

Thus it appears that although the Agriculture Department calls poor people as a group the smartest food buyers in the country, many if not most of them lack the nutritional savvy to use the Economy Diet Plan wisely. In extreme cases, this can be disastrous.

Mrs. Hilja-Maria Burlingham, a nutritionist for the Baltimore health department, recalls recently seeing an eight-month-old, overweight baby who had been fed on evaporated milk with sugar, potato chips, sodas, mashed potatoes with gravy, luncheon meats and sugar water. The teen-age mother, a food-stamp recipient, simply fed the child essentially the same things she ate.

OIL AND THE MIDDLE EAST

Mr. BROCK. Mr. President, I am deeply concerned over the failure of our Government to develop a strong, active policy on the manifold problems of the Middle East. In this time of tense political and economic maneuvering, when our allies look to us for leadership, we in Washington stand idle. Mr. Eugene Rostow has written a stimulating article on the need for strong Western policies on oil conservation, and on support for the Nation of Israel. Mr. President, America must not abandon her allies in Europe and the Middle East—we dare not, for not only their future, but our own, is at stake.

I ask unanimous consent that Mr. Rostow's article be printed in the RECORD.

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

[From the New York Times, Oct. 21, 1974]

WESTERN NONPOLICY ON OIL AND THE MIDDLE EAST

(By Euguene V. Rostow)

NEW HAVEN.—At the moment, throughout the industrialized world, we face a situation in which nearly every country individually, and the Organization for Economic Cooperation and Development nations as a group, are paying for petroleum products not out of current income but out of capital.

We are transferring wealth on a scale that is nearly unimaginable in order to buy our current requirements of petroleum for business and pleasure. In a few years, unless present trends are reversed, we shall have given over wealth equal to the total value of all the securities on the New York Stock Exchange before its recent collapse—the value, that is, of the total capital accumulated in 150 years of American industrial growth.

Yet no Western country has a tough and adequate program of energy conservation based on reality. In the United States, I have noticed no massive shift of freight and traffic to the railroads; no drastic restrictions on consumption; no rapid substitution of coal, nuclear power and alcohol for petroleum products.

An international committee is preparing a plan of sharing supplies in another emergency. But from the external signs that committee has not even begun to generate policies addressed to the existing situation, and adequate to its true dimensions.

Prevailing opinion, even among serious financial experts, is that we can do business as usual if only the petrodollars generated by our balance-of-payments deficits are "recycled"—deposited in New York, London or Frankfurt. It is hard to believe that such nonsense can find any takers. But it does.

Are the countries of the West ready to transfer power completely—and irrevocably—to the petroleum-producing countries, where it can be seized by any passing buccaneer? Hard as it is to imagine, this is exactly what we are doing—and calling it policy.

In the realm of political and military affairs, the story seems to be nearly the same.

The Middle Eastern war of October, 1973 was a fundamental Soviet thrust at the North Atlantic Treaty Organization, designed to outflank allied forces in Central Europe; separate Europe from America, and bring Europe's resources under Soviet control; and drive the United States out of the Mediterranean and Europe itself.

The Arab attack was the most basic thrust against the Atlantic alliance since 1945, far more serious than earlier crises over peripheral points like Cuba, Berlin and Korea. The war was a strategic, not a tactical move—a threat to the heart of our positions.

This view of Soviet policy in the Middle East has been commonplace in the memoranda and diplomatic conversations of all our governments for seven years at least. But even the United States Government had to learn the lesson anew in October last year.

The Soviet plan in 1973 was exactly the same as that of 1967, but on a larger and far-better-prepared scale. In 1973 it nearly succeeded. The brilliant success of Israel's Army, backed by the diplomacy of the United States, Portugal and some other allies, gave us some time.

But are we using that time?

After nearly a year, there does not appear to be an allied position on the politics and security problems of the Middle East, as there was, for all practical purposes, in 1967.

The high hopes for peace negotiations in the Middle East last fall and winter are rapidly fading. There seems to be no real prospect for carrying out the mandatory Security Council resolution of Oct. 22, 1973. That resolution, the most constructive single step in Middle East affairs since the conflict began, requires the parties to make a peace accord before Israel withdraws from the cease-fire lines.

Instead, we read of futile negotiations to coax Israel to enter into a series of further "military-disengagement" agreements without peace: the disastrous formula of 1957 that permitted the Soviet Union to expand

its influence in the area, and approach the point of bringing Europe—and perhaps Japan as well—entirely under its control.

Here again, the prevailing pattern of allied behavior seems nearly inexplicable. Do the allies intend to stand by while a nation that came into being in reliance on their promises is destroyed? Are they unwilling or unable to defend their interests against coercive pressures applied to them from beyond the area specifically mentioned in the North Atlantic treaty? Are they sleepwalking, as their predecessors did forty years ago?

(Eugene V. Rostow, Sterling Professor of Law at Yale, is president of the Atlantic Treaty Association. This is adapted from a speech before the association's 12th annual assembly, in Ottawa.)

THE DANGERS OF RAPIDLY RISING OIL PRICES

Mr. MONDALE. Mr. President, the economic turmoil into which the industrialized countries of the West have been thrust because of rapidly rising oil prices holds dangers on many levels.

The greatest danger, however, may be to the interdependence of the economic systems of the West. At other times in our history, concern over the availability of oil has led to severe tensions between ourselves and other friendly nations. In the aftermath of World War I, for example, during which oil shortages had been highly feared, two of our staunchest allies revealed an agreement to keep American oil companies out of part of the Middle East. This action produced a wave of reaction in the United States. Tension over oil supplies was prolonged, and relationships among the former allies were severely strained. Other regrettable episodes in which short-term, national self-interest undercuts the longer term common interest must be avoided.

The U.S. Government has a duty to not only avoid the implementation of policies that weaken the fabric of interdependence but also to speak out candidly when it believes its neighbors and friends may be taking measures which could in any way weaken the economic strength of an interdependent West.

The United States and Canada have in recent months separately announced, as major policy objectives, a reduced reliance on imported oil and greater self-sufficiency in energy.

For the United States, which has not been an exporter of oil for many years, the focus of the present administration has been on voluntary reduction in demand through conservation, and on stimulation of domestic sources of supply. The specific details of Project Independence have yet to be developed, but administration spokesmen have repeatedly indicated that reducing imports to zero by 1980 is not an objective.

For Canada, which for certain historic reasons exports western Canadian crude oil to the United States in quantities almost as great as eastern Canadian imports, the Federal Government has announced consultation with the Provincial governments with a view to reducing exports to the United States to zero by the 1980's, with sharp interim reductions beginning in 1975 also suggested.

Neither country can reasonably quarrel with the other's general objective of greater self-sufficiency, even if, on the U.S. side, Canada's action has an impact on our available fuel supply. However, as both Canada and the United States develop their separate plans for greater self-sufficiency, they should recognize the desirability of communality in elements of their plans. Of the greatest importance is the status of the northern tier of States and of the independent refineries located there, which have been encouraged by both Canada and the United States to become totally reliant upon Canadian oil.

An area of common interest must be carved out for these refiners, and for their customers and consumers in States along the Canadian border, so long as eastern Canadian refineries can reasonably be assured of imported supplies, from the United States or elsewhere, equal to the quantity made available for export to northern tier independents in the United States. Thereby, the two countries would avoid the abandonment of valuable pipelines and the recurrence of wasteful expenditures for new transportation facilities implicit in a policy of total independence of the two countries one from another.

For the short term at least, the United States and Canada also share a common problem in that both countries must import substantial quantities of high-cost crude oil produced by nations which are members of the Organization of Petroleum Exporting Countries. The U.S. problem is compounded because it also imports western Canadian crude oil, which bears an export tax of $5.20 per barrel. The price of Canadian oil in the United States is not only substantially higher than the price of Canadian oil to Canadian refineries but much higher than the average price of imports from other countries and U.S. domestic oil in the United States. The export tax alone costs U.S. consumers $3.5 million each day or $1.3 billion a year. Steps have been announced which would similarly increase the price of Canadian natural gas exports over domestic Canadian supplies. The net effect of these actions is and will be to place enormous financial burdens on consumers in States along the Canadian border, burdens which consumers on the Canadian side of the border will not share.

The petroleum refining centers of eastern Canada relied exclusively on imported crude oil until major oil discoveries were made in the Canadian prairie provinces in the 1950's. At that time the cost of imported oil was so low that western Canadian crude oil would not have been competitive in eastern Canadian refineries. U.S. refineries located along the northern tier of States provided a substantial market for western Canadian crude oil, thereby making an important contribution in the development of this vital Canadian natural resource. By 1961 Canada had adopted a national oil policy which formally limited the use of Canadian crude to refineries in and west of Ontario and required refineries in Quebec and eastern Canada to run exclusively on imported crude. Canada under this policy earned a substantially favorable balance of trade in crude oil.

By 1973, however, significant economic facts had changed. First, the price of crude oil imported into Canada exceeded the price of domestic Canadian and domestic U.S. crude oil for the first time in history. Second, Canadian Government officials expressed concern that the United States was operating in an inflationary economy which threatened to catch Canada in its web. Thus, Canada decided to restrain domestic oil prices and at the same time to impose a tax of 40 cents a barrel on export sales because as Mr. Donald S. McDonald, Canadian Minister of Energy, Mines and Resources, stated in a speech on September 28, 1973:

> Canadians were entitled to a reasonable opportunity price for the sale of this non-renewable resource.

At the time of Canadian Government action, the most recent Arab-Israeli war was several weeks away and the energy crisis worsened by the Arab embargo had not reached its current intensity.

In the wake of the Arab oil embargo, Canada has given a modified rationalization for the export tax: the need to subsidize eastern Canadian refiners which are still almost totally reliant upon imported crude oil. The tax itself is pegged at $5.20, not only to match crude oil cost increases being incurred by eastern Canadian refiners but also to go beyond that level to maintain a historically favorable balance of trade in crude oil with the United States. This is achieved by pricing Canadian oil exports at the price a hypothetical Chicago refiner would have to pay for a hypothetical barrel of Saudi Arabian or comparable crude oil delivered in Chicago. However, eastern Canadian refiners' weighted average crude costs are and have been very significantly below what the hypothetical refiners from Chicago would have to pay for Saudi Arabian crude oil.

Canada's original export tax of 40 cents and the "opportunity price" it produced might have been justifiable before the Arab embargo and the subsequent rapid increase in the OPEC prices. However, such a justification is more difficult now that the current export tax of $5.20 goes beyond even what would be required to provide a realistic subsidy for eastern Canadian refineries.

As a good friend of Canada I have been disturbed by our Government's failure to grasp opportunities for mutually constructive energy undertakings such as a trans-Canadan oil pipeline to bring Alaskan oil into the United States. I believe that we must now attempt to repair some of the damage which governmental neglect of American-Canadian energy relations has caused. And we must begin once again to demonstrate our mutual confidence that neither nation will seek to profit at the expense of the other in pursuing our energy policies.

There are many outstanding energy issues between the United States and Canada. None, however, is more pressing than reducing the Canadian oil export tax to a level which is fair to consumers of both nations. If effective

action is not taken by our Government in seeking this end, the American consumer will continue to pay excessive fuel bills for that substantial portion of our crude oil imports which come from Canada. Despite the fact that a final crude cost equalization program has finally been put into place by the Government, the near-total reliance of northern tier refiners—including refiners in my State of Minnesota—on Canadian crude will *continue to* place some competitive disadvantage on these independents, who are now providing much of the competition within our domestic oil industry.

As I and other Senators stressed last week in our meeting with Canadian Prime Minister Trudeau, we must use this time of mutual challenge as the basis for cooperative efforts in the wide variety of interests which we share.

The United States and Canada have common problems—the high price of crude oil produced by OPEC nations, and the need to develop greater domestic energy sources as quickly as possible. We must work together, as well as with other nations of the world, to solve those problems. We cannot afford to temporize by seeking solutions only at the expense of each other.

SENATOR THURMOND HONORED BY ARMY AVIATION ASSOCIATION OF AMERICA

Mr. TOWER. Mr. President, the Army Aviation Association of America, known as the Quad-A, recently held its annual meeting here in Washington at Fort Myer. At that meeting the Quad-A chose to honor my good friend and colleague on the Armed Services Committee, STROM THURMOND, for his service to America.

I can think of no better honoree than Senator THURMOND, for I can think of no man who loves this country more or has worked harder to preserve her independence. As ranking minority member of the Armed Services Committee, his devotion to the principles of strength and freedom has been a constant inspiration to me and, I am certain, to us all.

In that meeting Senator THURMOND presented remarks which I believe demonstrate his intimate knowledge of the problems facing the Defense Department and the Nation. Because his observations address such vital issues, I ask unanimous consent that they be printed in the RECORD, and I urge my colleagues to consider them carefully.

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

REMARKS BY SENATOR STROM THURMOND

Secretary Augustine, General Weyand, General Wright, Congressman MacGregor, friends and members of the Army Aviation Association of America, distinguished guests, ladies and gentlemen:

It is a distinct honor to be presented this coveted award, and to be the subject of the most generous remarks by General Weyand, General Wright and Congressman MacGregor. Also, I am particularly pleased to be named an Honorary Member of the Quad A. The spirit and dedication of our Army aviators is an inspiration to all of us. This particular group exudes a sense of purpose and responsibility to our nation which is clearly evident wherever I have visited them—whether it be Vietnam, Fort Rucker or elsewhere in our military community.

Also, the efforts of the D.C. Quad A Chapter in arranging this meeting and the presence here of Secretary Augustine, Mr. Korologos, General Weyand, General Maddox, General Lee and other officers of great responsibility in the Army is deeply appreciated.

GREAT CHANGES UNDERWAY

Great changes are taking place in the Army and these changes demand our close attention. Besides my deep interest in the development of new Army helicopters, I am watching closely the efforts of the Army to build a hardhitting aviation force. This is being accomplished by experimenting with tactics and organization in the new Air Cavalry Combat Brigade at Fort Hood, Texas.

These developments, so vital to our future Army, will be scrutinized in a new environment next year. The 94th Congress will be less sympathetic to defense needs. Those elements of the Congress and press which have been consumed in the Watergate scandal for the past two years will now turn their full attention to the defense budget.

This shift will come at a time of real international monetary instability. We face a period, brought on by inflation and transfer of wealth from the West to the Middle East, in which the very survival of our system is at stake.

OIL PRODUCERS ACQUIRING WEALTH

The reserves of the oil producing nations are spiraling upwards as petrodollars pour into their treasuries. As an example, the gold and foreign currency reserves of Saudi Arabia have increased from $4 billion to $11.5 billion in the last 12 months. They thus become the world's fourth richest nation, in reserves, surpassed only by West Germany with $32 billion, the U.S. with $15.8 billion, and Japan with $13.2 billion.

When grouped together, the oil producing nations now control 19 percent of the world's purchasing power after only one year of higher oil prices. Meanwhile, the Western nations, where oil is essential to run their industrialized societies, face economic turmoil.

By 1980—a flick of the eyelash in the annals of time—the oil producers could accumulate anywhere from $350 to $500 billion in gold and foreign currency reserves. With such huge sums they may well be able to manipulate the poliitcal, economic and fiscal stability of the world.

In any event, it is expected that within the next two years the oil producers can acquire at least $100 billion which would give them more cash reserves than all of the industrialized nations put together. Cash reserves of all industrialized nations now total about $113 billion.

While the U.S. is fortified by the wealth of our cities and corporations, other consumer nations such as Italy and India will be hard pressed even to borrow enough funds to sustain some kind of order in their economies.

DEFENSE BUDGET PROBLEM

Coupled with this problem, inflation in the U.S. may drive the defense budget towards or above the $100 billion mark. In the Senate, where at least three pro-defense votes have been lost in the November election, amendments such as slowdown of the Trident submarine program and large overseas troop reductions could succeed this year rather than fall by slim margins as was the case in the 93d Congress.

Outside of the economic factors impacting on the defense budget, we are now entering a stage where large sums will have to be expended on strategic programs. In the next 10 years the Trident submarines and B–1 will be in production. Further, the U.S. will have to MIRV more of its Minuteman force to meet deployment of a new family of MIRV'd Soviet missiles.

From the standpoint of the Army it is likely that only the most essential programs will continue without modification or slowdowns. The tank, utility and attack helicopters and SAM–D are all programs which must be continued. Thus, good management is essential if these programs are to complete development and reach production in these turbulent times.

The Army, being manpower oriented, is severely impacted by the accelerating cost of personnel. Since 1954 some 93% of defense budget increases have gone to personnel and operating costs. The procurement and research shares of the budget have remained fairly constant, varying down or up a few billion from the $20 billion mark.

Added to this fact must be the realization that the $20 billion in the procurement budget today will buy only 55% as much as the 20 billion for procurement in 1954.

While I have strongly supported comparable pay for our military personnel, I believe we are now at the point where personnel management must be improved to assure every defense department employee—civilian and military—is essential. The Army was once manpower rich, but now we are manpower poor.

ARMY NEEDS STABILITY

Despite the manpower cost crunch, I strongly support permitting our Armed Forces, the Army especially, to realize some stability in its military manning levels. Sharp manpower reductions after Vietnam destroyed Army readiness, but it is now coming back as personnel turbulence is reduced.

In the new Congress, manpower will be a big issue. While the Army's move to a 16-division force within present manpower levels has met general acceptance, more must be said about why we need 16 divisions now when 13 divisions sufficed previously.

One method of dealing with the manpower problem will be found through the *Retirement* Modernization Act, now the subject of hearings in the House. Also, the Senate staff is busy working on preparation to consider revisions in the Defense Officer Personnel Management System.

KEY ISSUES IN CONGRESS

While these are issues which most concern the Army, in the next Congress many other key items will receive attention from defense critics. These items will include:

1. Continued development of the B–1 strategic bomber.
2. Overseas troop deployments.
3. Civilian and military manpower levels.
4. Size of the Marine Corps.
5. Navy shipbuilding overruns.
6. Pace of TRIDENT submarine development.
7. Tank production and foreign military sales.
8. Lightweight fighter development.

As this audience knows, we have a new committee in Congress, the Budget Committee. This group is likely to force the Congress into making some hard choices. For instance, when billions more are needed for our new strategic systems, efforts will be made to cutback elsewhere.

Somehow we must get more for less. Better management of our personnel resources is an absolute necessity. Better management of our research and procurement programs also could save tens of millions.

The future meetings of President Ford and the Soviet leaders will be very important. Detente is only as good as the weapons we have to back it up. Whether or not SALT II will produce meaningful and safe agreements to control defense spending remains to be seen.

However, I am convinced of one point. The first priority of any society must be to provide for its own survival. Our nation stands

to lose everything if we fail to discharge our awesome responsibilities in providing a military establishment second to none.

Sometimes I am confronted with a critic who charges I support most all defense programs. My reply is "Yes, I do, and I am proud of it."

Before closing, let me say that I have visited both Utility Tactical Transport Aircraft System contractors. The Sikorsky Uttas flew this month and the Boeing aircraft will fly before the month is out. The General Electric engine is progressing well. As you perhaps know, it has low weight and fuel consumption and can be repaired in the field with as few as 10 hand tools.

The Attack Helicopter program is not as far along and has experienced some cost and schedule problems. However, the engineering design is complete and assembly is underway with the first flight expected some time late next year. The Army has given up the high speed offered by the Cheyenne to save dollars, yet performance for the critical lower levels of the envelope have been improved.

General Wright, members of the Association, I would like to close by once again expressing my appreciation for the recognition you have given me today. After my flight in the gunner's seat of the Cobra Attack Helicopter at Fort Rucker, I was presented with a flight jacket. Now, as an Honorary Member of Quad A I am on the team all the way. Thank you.

JOHN W. McDONALD, JR., NAMED DEPUTY DIRECTOR-GENERAL OF THE INTERNATIONAL LABOR ORGANIZATION

Mr. McGEE. Mr. President, John W. McDonald, Jr., Coordinator for Multilateral Development Programs in the Department of State, has been named Deputy Director-General of the International Labor Organization.

I would hope my colleagues would join me in applauding the selection of John to this very vital post. In my estimation, a finer choice could not have been made. Few people can match John McDonald's record of untiring efforts at making the U.S. participation in the United Nations more effective. For the past 7 years he has been an outstanding and vigorous advocate for the United Nations system.

John McDonald has been concerned with the economic and social problems of the United Nations and its family of specialized agencies for the past 7 years. His prior record of service to the U.S. Government has been equally impressive.

From 1946 to 1949, he served with the Office of Military Government in Germany. In 1949, while still in Germany, he joined the Department of State and remained in Germany where he worked with the Allied High Commission in Bonn until 1952.

From there, John moved to Paris where he served with the U.S. Mission to the North Atlantic Treaty Organization for European Economic Cooperation. In 1954, he joined Secretary of State Dulles' secretariat staff in Washington. A year later he became Executive Secretary to the International Cooperation Administration.

From 1959 to 1963, he was posted in Ankara as U.S. Economic Coordinator for CENTO Affairs, accredited to Turkey, Iran, and Pakistan.

From 1963 to 1966, John was Chief of the Economic and Commercial Sections in our Embassy in Cairo and in 1967, he returned to the United States where he was detailed to the National War College for 1 year.

John was educated at the University of Illinois where he received both his A.B. and J.D. He is a member of the Illinois and U.S. Supreme Courts Bars.

Having worked closely with John over the years on United Nations matters, I offer him my warmest congratulations for a well-deserved appointment. While his new assignment will take him out of Washington, a fact I will regret, I look forward to his continued excellent contribution to the U.N. system when he assumes his new duties.

E-SYSTEMS, INC., DALLAS, TEX., HIGHEST IN EMPLOYEE SAVINGS BOND PARTICIPATION

Mr. TOWER. Mr. President, I wish to bring to the attention of my colleagues a significant accomplishment by a major company headquartered in Dallas, Tex. This company, E–System, Inc., is for the second year in a row, at the highest level on the honor roll among major U.S. companies in employee payroll savings bond participation.

This year, 5,654 E-Systems men and women are enrolled in the payroll savings plan, a figure that represents 99.91 percent participation for the company. This record will be hard to match.

E-Systems was the No. 1 company in the Nation last year in the savings bond payroll deduction program in the category of companies with 5,000 or more employees. Last year the company had 99.6 percent of its employees participating.

The company was congratulated for its outstanding showing this year in a letter from Secretary of the Treasury William E. Simon to E-Systems chairman of the board and President John Dixon. I ask unanimous consent that the text of Secretary Simon's letter be printed in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 12, 1974.

Mr. JOHN DIXON,
Chairman of the Board and President, E-Systems Inc., Dallas, Tex.

DEAR MR. DIXON: I have just heard of the superb results achieved in your 1974 U.S. Savings Bonds campaign and I wish to extend my heartiest congratulations and my sincere thanks to you, your campaign workers and to all E–Systems employees.

Once again your wholehearted personal leadership and the enthusiastic response of your employees have brought the Payroll Savings drive to an outstandingly successful conclusion. You are at the highest level in the national Honor Roll in percentage of employees enrolled in the Payroll Savings Plan!

The 5,654 E–Systems men and women who are now helping to ensure their financial security by saving systematically from their pay in U.S. Savings Bonds are also contributing to the economic stability and well-being of our Nation.

I am deeply grateful to all of you for this affirmation of faith in our country.

Sincerely yours,

WILLIAM E. SIMON.

REPORT RELEASED ON POLYGRAPH TESTING

Mr. ERVIN. Mr. President, it has become a common occurrence nowadays, for anyone seeking public or private employment to have to submit to a lie detector test as a condition of obtaining employment. Just as often employees are asked to submit to such tests if they wish to continue in their present jobs.

For many years now, I have objected to the use of such tests, calling them "20th-century witchcraft." Indeed, I have introduced bills in the last several Congresses designed to restrict the use of the polygraph for employment purposes. None, I regret, has ever passed. A number of States, however, have enacted regulatory statutes, and I am hopeful that Congress in the future may likewise legislate controls on a national scale.

In any case, the staff of the Judiciary Subcommittee on Constitutional Rights has for the last several years been tracking the development and use of the polygraph for employment purposes. It is today publishing a report summarizing its work. Entitled "Privacy, Polygraphs, and Employment," the report is a brief analysis of the current status of polygraph testing and its implications for the privacy of those who must submit to it. The staff found that rather than diminishing, the use of the polygraph in employment situations—especially in the private sector—is substantially increasing. As an affront to personal privacy, the report concludes, the polygraph clearly demands more attention both from the courts and from Congress.

I could not agree more.

The polygraph, or so-called "lie detector," was developed 50 years ago in the hopes that it would facilitate the determining of guilt and innocence in criminal cases. In 1923, the first court test of the polygraph occurred in the case of *Frye* v. *United States*, 293 F. 1013 (D.C. Cir. 1923). The Court of Appeals for the District of Columbia then declared:

[T]he systolic blood pressure deception test has not yet gained such standing and scientific recognition among physiological and psychological authorities as would justify the courts in admitting expert testimony deduced from the discovery, developments and experiments thus far made.

Over a half-century has passed since the Frye holding, yet this opinion regarding the polygraph's unreliability as a means of determing guilt or innocence still prevails. No court has given its unqualified endorsement to the polygraph. Questions still abound as to its scientific dependability.

Polygraphs attempt to measure physical reactions—changes in blood pressure, pulse rate, respiration and skin perspiration—to questions designed to test an individual's veracity on nearly any subject. The theory assumes that a clear relationship exists between lying and specific reactions of the body. In fact, no relationship of this kind has been thoroughly established. It is clear, on the contrary, that many factors can produce the physical reactions recorded on the polygraph. Mental tension, nervousness, physical condition, psychological abnormalities, attitudes toward the procedure,

and even variances in the character, personality, race and sex of each individual subject affect the results of a polygraph test.

What we are asked to regard as an objective, infallible means of detecting deception, then, actually rests on the subjective judgments made by the polygraph operator. Not a scrap of evidence has yet been produced to show the polygraph conclusively establishes truth or falsity. And to my mind, unless it is conclusive, it is worthless.

Despite its obvious flaws, however, public and private employers have seized upon the polygraph as a means of screening employees. At the cost of losing a job or job opportunity, employees are asked to submit to questioning which often encompasses their beliefs, attitudes, and past conduct. With the results of the tests, the employer must attempt to predict the future conduct of his applicant or employee. In this respect, the results obtained under such circumstances must necessarily be even more *tentative* than those obtained from a criminal defendant. At least the suspected criminal is questioned about his involvement in a specific past event, and not about his beliefs and opinions.

Be this as it may, however, employers have apparently opted for continued use of the polygraph, perhaps on the theory that some information, even if unreliable, is better than none at all.

I object, as a personal matter, to such testing because it infringes upon the personal privacy of those who must submit to it. It is no answer to say that they submit voluntarily since the pressure of obtaining and keeping a job must weigh heavily.

I am also concerned that polygraph testing violates a number of explicit constitutional guarantees. In the case of public employers, the argument is particularly compelling. In the case of private employers, I think it is fair to say that their action violates the spirit, if not the letter, of the Constitution. After all, the first amendment provides that an individual is free to think for himself, to express himself, and associate with those whom he chooses. It does not contemplate a loss of benefit or advantage for doing so. And the fifth amendment says a man does not have to be a witness against himself in a criminal case. And the fourth amendment says that a man should be secure in his person against unreasonable searches and seizures.

Both public and private employers, of course, maintain that their evaluation of prospective employees is greatly facilitated by the polygraph. It is my opinion, however, that such expediency does not justify the damage done to the rights which the Constitution guarantees us.

I think that for this reason, legislative action either to ban or control polygraph testing is appropriate. In enacting such legislation, Congress would take a significant stride toward preserving those precious rights which are the foundation of our freedom.

A COMPETENT WOMAN ENJOYING THE FRUITS OF HER HARD WORK

Mr. BROCK. Mr. President, I would like this article from the October 14, 1974 issue of Industry Week to be printed in the RECORD. As a proponent of women's rights, it is especially heartening to me to read about a competent woman enjoying the fruits of her hard work—and being rewarded and recognized for it on an equal level with men.

However, I would like to say that I believe we will truly be making progress when a woman such as Ms. Marcus, who achieved such success, is not a novelty that she is written about in a national magazine.

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

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

THIS WOMAN COULD BE YOUR BOSS

When she's not swamped as manager of equal employment opportunity affairs for Union Carbide Corp.'s Chemicals & Plastics Div., Nancy L. Marcus stays busy as president of two small companies which she founded.

She gets up at 4 a.m. because she loves to work. Her only alarm is her body clock. On weekends it lets her sleep until 5 a.m. She tries to read a book a day, "including a lot of junk." She's barely 30.

Successful, yes. Superwoman, no. She neither looks nor acts the part. She worries, though, that others will cast her as the "all-knowing woman manager." But, she says, "I'm not. Sometimes I come off sounding pedantic (because) I have a lot of opinions. But that's because I think women do themselves a disservice. It's great being a woman; you shouldn't try to be a man. You can make it being a woman."

Nevertheless, she believes women traditionally have held themselves back by their behavior on jobs. "I have seen women at fairly responsible levels sit around and gossip," she says by way of example. "That's got to hold women back in general. Men don't do that." She says men might gossip during lunch or over a drink after work, "but they do not sit around their offices pattering about things."

She sees another barrier to women's progress in industry: their sometimes overemotional reaction to criticism. "There's nothing more disconcerting for me than to have one of the women working for me cry." Besides making it difficult to criticize constructively, crying also "makes it very difficult for me to feel free to criticize [a woman] again," says Ms. Marcus.

"Women have to learn that criticism of their performance is intended to help them do the job better, and that it's not a direct personal criticism. It's a nice release to feel sorry for yourself when somebody criticizes you, but then you can't really use that criticism effectively."

To overcome this, she believes women must be "more aware of themselves as managers as opposed to personal individuals who are being attacked by the situation." She thinks that's a key to the way men operate. "They go in there doing a job. They are in a role. They often have ego tie-ups, but they don't think that every criticism is a direct criticism of them."

LEAVE THE "KITCHEN" BEHIND

"Kitchen traits" is her term for the characteristics which she believes retard the careers of some women. They have difficulty isolating their personal lives from their business lives, she says. "They're not used to doing that, and they don't do it readily."

Moreover, she contends that women managers must learn to isolate themselves from emotional responses to various "life-styles," developing instead an ability to rate others on their job performance rather than on personal appearance or comportment.

Another manifestation of this "kitchen upbringing" is the reticence exhibited by many women in the presence of men. "I went to an all-girls school [Bryn Mawr, where Ms. Marcus worked her way through on scholarships and "lots of waitressing at 30¢ an hour"]. In class a girl wouldn't argue with a professor. We were always conscious of the role of being not so aggressive."

That trait carries over to business, she maintains. In meetings, women worry about being overly aggressive. They may not contribute when they should because of this fear. Or, she says, they will overreact and become "inanely aggressive," commenting on everything.

"Women," she advises, "should feel free to speak up but compose [their] thoughts. Realize it's a forum. You will be judged by your ability to perform." That performance, she adds, does not include voicing approval of every suggestion made by a man. Nor does it always include being first to jump up when someone suggests going out for coffee.

"You don't have to be the meeting secretary," she tells women managers and executive hopefuls. "If you want to do it, that's fine. But [it's not necessary to] feel a compulsion. That's a really nice feeling when you reach that point."

DON'T ASK FOR BLOOD

Ms. Marcus freely admits that it took her a while to overcome some of these same feelings. It wasn't easy. Her self-confidence developed as she forced herself to take on new responsibilities and succeeded.

To speed their development, she encourages other women with managerial aspirations to "step outside themselves" and watch how they react to crisis and criticisms. She concedes that this step is not an easy one.

Ms. Marcus recalls a recent episode in which a printer incorrectly processed 15,000 copies of a book published by one of her companies. The man's supervisor was a woman. She became hysterical, remembers Ms. Marcus, and demanded that the man be summarily dismissed.

"Everything became so tense that nothing happened for three days, except some phone calls. The man had made a terrible mistake and admitted it. You can't ask for anybody's blood over that." Before the error was rectified, the job was ten days late. "But it would have been only seven days late had not the other woman manager upset things, causing more lost time."

Although she speaks with fervor, Ms. Marcus dots her conversation with remiscences and chuckles about her own shortcomings, present and past. Had this same printing mix-up happened a few years ago, she says, she, too, would have reacted first by becoming furious and then by regaining her calm.

But from watching herself—and others—over the years, she says she "didn't waste the time getting furious. I really had no period of being angry." She smiles and says she also avoided the exhaustion that prolonged anger brings—an important consideration for a person who is up in time to put in several hours of work before greeting the sun.

"There are going to be catastrophes," she says. But instead of reacting emotionally, she counsels women to immediately begin analyzing and solving the problem.

Ms. Marcus refers to an associate as the kind of manager other women should try to be. She describes her as "probably the highest ranking woman scientist at Union

Carbide." The woman does not have a Ph.D. but does have about 15 men—"fairly high-level research scientists"—reporting to her.

"Probably not one of them resents that she's a woman," says Ms. Marcus. "She manages by respect. She respects the people who work for her, in the same way she respects her own work. Knowing that, [the other scientists] have no fear that she is trying to take the glory from them. She has a lot of self-confidence, and she likes people. She has a sense of the importance of allowing people to make their own mistakes and of rewarding [their accomplishments] appropriately."

GOING ALL OUT

Women have some pluses going for them, believes Ms. Marcus. One is "stick-to-it-iveness." Once women become managers, she says, they go "all out to prove themselves."

But some tough-minded women must temper their aggressiveness, she advises. "I've seen situations where women have become so highly competitive that it becomes detrimental to getting the job done. You have to keep job goals in mind."

Another plus for women, she maintains, is a high degree of sensitivity. In some situations, they can gage better than men the probable reactions of others.

Ms. Marcus is also tempted to at least partially credit intuition for the success of some women. "But intuition," she concludes, "really is having lots of experience and being able to draw on it in sort of a spontaneous way."

On the other hand, there are some additional abilities which women must acquire, she contends. One is delegation of responsibility. "I think that's the toughest job for any manager. It was the most difficult thing for me to learn to do."

Closely allied, she says, is developing the ability "to accept another person's job as a success." Women should realize that things don't have to be done "my way." That, too, she says, is difficult.

Perhaps even more difficult for today's women (bombarded by news of women's liberation) is overcoming the attitude that they should be able to just step into a managerial post rather than working into one. Ms. Marcus says that "a lot of the women" she has met in business feel that way.

She tells of one such woman who said she should be a manager, but who "in the same breath tried to learn how much I was earning, told me how much she was earning, [and] went on at great length about some of the things that her new boss of about three days had done.

"Right away," recalls Ms. Marcus, "I thought that she is so unprofessional that she's right where she ought to be. She has not reached the point where she should be managing, because she hasn't really developed the instinct for it yet. But she didn't see it [that way] at all.

AN OUTSIDE COMMITMENT

"Too many women get all involved in the little things and forget that there are some big things," says Ms. Marcus. "They forget that managing is fun. It's not just a matter of money."

She stresses that when a woman commits herself to being a manager, she is "making a commitment to an interest in something outside" herself. She believes that part of management training should be "developing an appreciation of that commitment."

There is one other characteristic which Ms. Marcus believes all women should appreciate and, indeed, cites it as perhaps the most common trait of the accomplished businesswoman:

"I think the most successful woman managers retain their feminity. I would hate it if I lost mine. I'm definitely a woman. I'm not trying to be a man. I'm trying to be a businesswoman."

POPULATION EXPLOSION IN BILL, WYO.

Mr. McGEE. Mr. President, I would like to call the attention of my colleagues to an article appearing in the December 2, 1974, People magazine. The article deals with a population explosion in Bill, Wyo.

In 1 year's time, the population of Bill, Wyo., tripled. I do not believe any other community in the world could boast of such an occurrence. However, this population explosion did not have serious societal and cultural ramifications. Neither did Bill, Wyo., suddenly face the impossible task of extending the normal services to the new residents. In fact, Bill, Wyo., has survived this population explosion very well, which is a tribute to its leadership.

There is one catch, however. Prior to the influx of people, Bill had a population of one—Dean Munkres. Recently, Dean's son, Dave, and his wife returned to Bill to live.

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

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

THIS TOWN AIN'T BIG ENOUGH FOR THE TWO OF US

Dean Munkres, 53, has the town of Bill, Wyo. firmly under control. For two decades he has been mayor, police chief, fire chief, postmaster, dogcatcher, meter maid—and for most of that time the town's only resident. But the dusty stop, midway between Douglas and Gillette, experienced a population explosion recently when Munkres's 26-year-old son Dave returned with his wife, Cindy. (Munkres's wife left Bill in 1960.) Munkres managed to stave off a tongue-in-cheek challenge by his son at the polls. Still, Munkres is allowing Dave to take over all the town jobs save two—the mayor's job and that of U.S. postmaster, a position that carries with it a juicy $7,500 salary. But the threat of an interloper remains. When a schoolmarm moved in and started talking about running for sanitation commissioner, Boss Munkres carefully checked his map, and then declared her 200 feet "outside of city limits."

OIL DEPLETION ALLOWANCE AND THE INDEPENDENT OPERATOR

Mr. TOWER. Mr. President, I would like to share with my colleagues one of the most articulate, cogent pieces of correspondence that I have ever received from a constituent. The constituent's name is Arthur T. Stieren of San Antonio, and he is a petroleum geologist. His letter, concerned with the benefits accruing to independent oil and gas operators through the depletion allowance, perfectly illustrates the percentage depletion allowance for what it is: A tax benefit for oil and gas consumers, not oil men. The depletion allowance is not just an artificial accounting benefit, but it reflects a real economic cost. That is a portion of the cost of risk, which the taxpayers, but not the consumer, picks up.

The letter makes it quite clear that we can expect the independent operator to either quit or slow down drilling as a result of repeal of the percentage depletion allowance. Since it is obvious that, from the standpoint of national energy policy, we wish to encourage domestic drilling—especially exploration, repeal of percentage depletion would create a manifest policy anomaly. Thus I am persuaded that talk about tax breaks for oil men is nothing more than mindless rhetoric. Furthermore, you do not hear much talk about repeal of the percentage depletion allowance for the numerous other minerals to which it applies; nor do you hear any talk at all about repealing section 631 of the Internal Revenue Code, which permits capital gains treatment for income from the cutting of timber and the mining of iron ore and coal.

I, therefore, submit to my colleagues that much more detailed, thoughtful analysis is required before the Congress makes a policy determination about the merits of percentage depletion for oil and gas. I also suggest that the real issue is whether percentage depletion provides a windfall to oil and gas consumers. As an alternative to repeal of the oil and gas depletion allowance, I suggest that thoughtful consideration be given to implementation of a Btu tax on consumption of natural gas and petroleum products, which would permit recapture of that windfall. Additionally, such a tax would encourage conservation of petroleum products and natural gas through the resource-allocating mechanism of price.

Mr. President, I ask unanimous consent that the letter of Mr. Stieren be printed in the RECORD.

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

D-101 PETROLEUM CENTER,
San Antonio, Tex., November 13, 1974.

Hon. JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: I am an independent oil producer residing in San Antonio, Texas. I would like to discuss with you the following topics:

a. Who finds most of the new, onshore oil in this country?

b. What type of person typically drills wildcat oil prospects, and why do they do it?

c. How does the price of crude oil affect the number of independents?

d. Why does an independent with a high income often pay a low income tax?

e. Does the independent ever really escape taxes?

f. How will the proposed elimination of percentage depletion affect an independent's drilling program?

g. An alternative to the elimination of depletion is presented.

h. How would the formation of a Federal Oil Company affect the independent?

I am a one-man organization . . . exactly the opposite end of the spectrum from the large, integrated oil corporations. I am not in the gathering, transporting, refining or marketing end of the business, nor do I operate offshore or overseas. I'm sure you are aware that historically independents such as myself are responsible for finding some 70% of the new oil found onshore in the United States. This new oil is found at the cost of many dry holes, only one wildcat in 15 or 20 finding any oil, and only one in fifty resulting in a major discovery. A dry hole is one of the few bad business investments that has no salvage value. A hole in the ground full of mud is worth zero. Despite advances in geological technology it is still a fact today that the only way to find oil is with a drill bit. Prospects drilled on the best geology are often dry, while "obviously" condemned

areas can turn out to be productive. Reams have been written about the rich, flamboyant, Texas oilman, but nobody writes about the many that have gone broke drilling dry holes. It presently costs around $50,000 to drill a 5,000 foot dry hole in Texas. We should ask the question, who is going to spend $50,000 on a wildcat and why do they do it?

First, the money for drilling a wildcat usually comes from people who have a substantial income. The independent producer may have income from production as well as from outside, non-oil sources. He often sells interests in a wildcat to other oilmen, as well as to doctors, lawyers and other professional people who also have substantial incomes. The investor in a wildcat must have substantial income simply because, due to the crushing odds against success, *he has to use money he doesn't need.* It is obviously foolish for most people to borrow money to drill a wildcat, and our bankers are well aware of this fact.

Secondly, this investor has to be a gambler by nature. Most independents would not think of spending the money they spend each year on dry holes in Las Vegas, yet they are actually spending it in a very similar manner. In fact, the odds in Las Vegas are probably better than in the oil patch. Unfortunately, the typical independent oilman inherited some of the unquenchable optimism of the old pioneer gold prospectors of the 1850's. "I bet the mother lode is just over that next hill," said the prospector, as he led his burro into the setting sun. To the oilman, this next wildcat is going to be that big strike he has dreamed of. Just as many an old prospector died in some desolate spot, after having eaten the burro, so many an independent oilman has had to quit and get into another line of business in order to eat.

With the above picture of the independent oilman and his wildcat investors in mind, I think two conclusions follow:

(1) There are *damn few* people in the United States today with the *income* and the *inclination* to drill wildcat oil prospects.

(2) They certainly don't *have* to drill *anything* if they don't want to.

One of the reasons there are so few independent oilmen today is because the price of crude oil was *so cheap for so long.* In 1920 the price of crude in West Texas was $3.50 per barrel. It wasn't until about 1972, or *52 years later,* that it came back up to the earlier price quoted. In the depression of the 30's some oil sold for 10¢ a barrel. During the 40's, 50's, and 60's it was a strain to get $3.00, but all the oilman's costs . . . lease acquisition, drilling, materials, equipment, labor . . . continued a steady upward rise. By the middle of the 60's it was simply too expensive to look for something as hard to find as oil for only $3.00 a barrel (7.2¢ per gallon), and many independents left the business. Today, with the *long overdue* higher price for crude oil, many people are returning to the business. Rigs that were stacked have been reconditioned and put back in service. Now we wait in line for a drilling contractor and beg for steel pipe. For the same reason geologists cannot accurately predict if a prospect will be productive, so it is *virtually impossible* for *anyone* to estimate how much oil remains to be found in this country. In Texas, people continue to find oil in areas that major companies and others thought were condemned. I personally feel that much new oil remains to be found onshore in this country after sufficient dry holes have been drilled chasing it down.

Concerning the income taxes paid by the independent oil producer, it is very possible for him to have an income of $100,000 and pay an income tax of $4,880. "Unfair!" says the headline-seeking senator. "Greedy Texas oilman pays only 4%, while struggling factory worker pays 20%!" says the news headline and the TV commentator. Instead of this really childish hysteria for publicity purposes, why don't we consider in a rational manner why the oilman paid a low tax. It so happened he spent *$80,000 drilling dry holes.* $100,000 less $80,000 left a taxable income of $20,000, on which the tax is $4,380 (placing him in the 32% bracket, not the 4%).* Now the point is you can't have your cake and eat it too. Either the oilman is actively searching for new oil by drilling dry holes and paying low income taxes in the process, or he sits back, has a high taxable income, pays a high tax . . . and finds no oil. The Congress should make up their mind which way they think is best for the country and then stick with their decision.

Keep in mind that the oilman would have a lot more after tax money to spend on himself and his family if he *sat back and did nothing.* In the hypothetical illustration above, the oilman had income of $100,000, dry hole expense of $80,000 and taxes of $4,380, leaving a net after tax of *$15,620.* If he sat back and did no drilling, the tax on $100,000 would be $45,180, leaving a net after tax of *$54,820.* So he would be over three times better off to do no drilling and pay the higher tax. In other words, while the oilman is saving taxes by drilling dry holes, he is also losing a substantial amount of his own after-tax money in each one of them.

Consider also that the government always gets its full taxes on any production found in the end. What happens if the oilman gets a producer instead of a dry hole? Immediately his income is higher, and he must either spend more on drilling or pay more income tax. If he increases his drilling, it is more likely he will find more oil, and again his taxable income shoots up. It is a never ending spiral, and the typical oilman either ends up paying a lot of income tax or selling out, in which case he pays a big capital gains tax on the oil property sold. If he dies owning production, the 77% inheritance tax gets him. In the case of the oil business it may be said, "The I.R.S. always gets their man."

How does 22% depletion fit in the picture? Depletion is an after tax source of funds for the independent producer. Some aggressive independents drill up most of their income every year and in effect are *living on their depletion.* The effect of reducing or eliminating depletion on the independent will simply mean he will cut back on exploratory drilling enough to make up this loss of "keeping money". In our hypothetical illustration, let us assume that $10,000 of depletion was deducted before arriving at the income of $100,000. It would be typical for the independent to have both oil and non-oil income, so we are assuming the $10,000 is 22% of his oil income subject to this deduction. When the oilman drilled $80,000 in dry holes and paid taxes of $4,380, he had $15,620 left after tax. However, since the $10,000 depletion deduction was a non-cash expense, he actually had $15,620 plus $10,000 or $25,620 in after tax cash. Let us suppose he feels he cannot support his wife and kids on any less than that. The question becomes, what will he do if Congress takes away his $10,000 depletion deduction? The answer is he will simply drill less in order to end up with the same spendable income. In our example, he will only spend $64,000 instead of $80,000 on drilling. He deducts $64,000 intangible drilling costs from $100,000 income, leaving a taxable income of $36,000. The tax on $36,000 is $10,340, which leaves him with an after tax income of the required $25,660. By reducing his depletion $10,000 you have caused a $16,000 (or 20%) reduction in his drilling program.

* 1973 Tax Table, Married Taxpayer Filing Joint Return.

The effect of a loss of depletion on drilling is even more pronounced in the case where *all* of the independent's income comes from an oil source and qualifies for the depletion deduction, as can be seen in the following table:

	With present depletion	With no depletion
Gross income	$128,205	$128,205
Less 22 percent depletion	28,205	0
Income before drilling	100,000	128,205
Less drilling costs	80,000	30,000
Taxable income	20,000	98,205
Less income tax [1]	4,380	54,251
Net after tax	15,620	43,954
Net after tax	15,620	43,954
Add depletion taken	28,205	0
Cash income	43,825	43,954

[1] 1973 tax table, married taxpayer filing joint return.

Note: Reduction in drilling program: $50,000 or 62.5 percent.

Most independent producers would lie somewhere between the two hypothetical examples given above. So one can logically predict that the elimination of percentage depletion will result in a reduction in drilling in the range of *20–60%.* Any Congressman who votes for the elimination of depletion is actually prolonging the amount of time necessary for this country to achieve Project Independence. Stated another way, a vote to eliminate depletion is certainly a vote for more dependence on foreign oil.

Let us not forget how a loss of depletion will affect the wildcat investor who is in another profession, such as the doctor and stock broker. Part of what encourages them to invest in a wild oil venture is the favorable effect on their income tax picture if oil is discovered, and they get their depletion allowance. As one of my stock broker investors put it, "If they take away my depletion, forget calling me on your next deal."

In light of the above considerations, I think it would be most unwise to remove, reduce or tamper with the 22% depletion allowance. However, if Congress is *determined* to raise revenue by reducing or eliminating depletion, I would suggest the following as an alternative. Why not let the oil producer *earn* his 22% depletion by his having to show an equivalent amount of intangible drilling costs? Let us say my depletion for the year from all sources, figured at the present 22% rate, was $10,000. To earn his deduction, I would have to show at least $10,000 in drilling costs. If I spent $5,000 drilling, I would only get $5,000 depletion. Zero drilling would mean zero depletion. Remember, the only way to find oil is by drilling. Such a proposal would take depletion away from some landowners, royalty owners and some inactive, older oil firms that might have considerable production. However, these people could always save their depletion if they were willing to gamble some of their income in the search for new oil. So this proposal would result in either more revenue to the government or increased exploration, both desirable objectives.

Finally, I can't resist a comment on the so-called "punitive mood" of Congress against the oil business. I would like to again call attention to the point made earlier, namely (a) There are very few people willing and able to drill wildcat oil wells, and (b) They don't have to engage in this risky business and would in fact show more after tax income if they quit. One easy way to make them quit would be to put them in competition with a Federal Oil Company. When this happens, and there is soon a great public outcry about the way the Federal Oil Company is wasting the public's money in many dry

holes . . . when government geologist after government geologist is fired because he didn't find any oil . . . when, due to a massive bureaucracy, government wells cost twice as much and take twice as long as a good independent could have drilled them . . . you may be sure I will be peacefully fishing somewhere, paying a large income tax and having twice as much after tax income as I ever had. Of course, I'll probably have to row the boat to the fishing grounds. There won't be any gasoline for an outboard motor.

Yours truly,

ARTHUR T. STIEREN.

FARMERS, CONSUMERS, AND THE ACA

Mr. ALLEN. Mr. President, for those of us who are interested in protecting the valid interests of both the American farmer and consumer, I would recommend the reading of an enlightened editorial which appeared in the December 1974, issue of the Progressive Farmer, one of the most prestigious farm publications in this Nation.

This editorial shows an astute grasp of the issues involved in our recent debate on the Agency for Consumer Advocacy—alias Consumer Protection Agency—bill, S. 707. It also reveals, for the first time from an unquestionably expert source, the cruel hoax inherent in the agricultural provisions of the bill. I commend the editorial to the Senate.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

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

NO, NO—NOT MORE WASHINGTON BUREAUCRATS

Congress has recently filibustered to death a bill S. 707, Agency for Consumer Advocacy Act, that would have created an independent agency for consumer advocacy. Though stalled for a moment, a similar bill is certain to come before Congress next year.

The defeated bill was based on the premise that consumers must look to Washington for the management of their intimate personal affairs. Its sponsors claim it is the consumer's best hope of halting unjustified price increases. But, as we see the act, it would set up still another unneeded Washington bureaucracy to add to the cost of government and to decide for consumers what they should decide for themselves.

It would create a new federal agency, headed by an administrator appointed by the President to a fixed four-year term. The administrator would have the broadest possible powers to intervene in the administrative proceedings of any federal bureau or agency. If he alone determined that the action of such an agency or bureau adversely affected the welfare of consumers, he could seek its court review.

We already have numerous federal regulatory agencies to guard consumer welfare. It does seem that consumers already have adequate federal protection. But, say ACA proponents, these agencies have gone soft. Their hot-blooded enthusiasm for consumer protection has cooled; they have become captives of the very industries they were set up to regulate. So the bright new idea is to set up a superdooper consumer protection agency to supervise all the others.

The rather unsatisfactory record of federal regulatory agencies we already have should be a strong argument against creating a new super-agency to correct the mistakes of the old ones. If old-line agencies are not doing the job they were set up to do, it is the fault of Congress. It should supervise such agencies more closely. Congress itself should reorganize them and change their regulatory obectives to give better consumer protection rather than "pass the buck" to a possible new bureaucratic nightmare.

Probably no item of expense has greater influence on the high prices people pay for consumer goods than the cost of labor. Labor union abuses such as "featherbedding" often add unjustifiable increases to the prices consumers must pay. Yet the proposed bill exempts labor unions from its more stringent provisions. The agency cannot participate in labor-management contract negotiations. Apparently the sponsors of the proposed agency have reacted to the pressure of a powerful special interest even before the agency has been established.

Originally, farm programs were to be one of the major targets of the proposed new agency. But when it became apparent that the ACA bill was dying in the Senate its proponents appeared to back away from their opposition to such programs. They offered to amend the bill's application to agriculture. First, they would amend the bill's definition of consumers to include working farmers. With its awesome authority such an agency could be a powerful advocate of farmer interests. But think a minute, what friend of agriculture would want a powerful group of consumer activists replacing USDA as the farmer's strongest advocate in Washington? It would be too much like appointing a weasel to protect the interests of a coop of chickens.

About the only protection farm producers would have under ACA would be its provision that its administrator will have no authority to intervene in any USDA proceedings without considering "the interests of farmers in maintaining an adequate level of income and production." But in the same sentence with the above protective provision is the admonition that the administrator shall likewise consider "the consumer's interest in an adequate food supply." Now could it happen that this will quite frequently mean lower prices and reduced income for farmers?

In a conflict between farm income and consumer food supply, it is a good bet an administrator of an agency set up to protect consumers would decide the issue against farm producers.

Everyone is a consumer, but consumers differ widely in their interests. So it stands to reason that what Washington thinks is good for some consumers may be eternally obnoxious to many.

Finally, at this time of galloping inflation, the last thing consumers need is another federal bureau that will increase the cost of doing business and add to the federal deficit. Let your Congressman and Senators know how you feel.

MEASURING PARITIES

Mr. BROCK. Mr. President, the Wall Street Journal, in an article by Mr. James C. Hyatt and an accompanying editorial, has called attention to the manifold problems of the Equal Employment Opportunity Commission. I feel that the most serious problem lies in the EEOC's mechanical approach to the problem of ending discriminatory hiring practices. Instead of applying its energies to individual complaints of discrimination, the EEOC attempts to prove discrimination on an organizational level by a process which it calls measuring parities. This process amounts purely and simply to requiring quota hiring, which we, the Congress, have declared illegal. Meanwhile, the EEOC's backlog of unresolved discrimination complaints is approaching 100,000, of which many, many cases date back from 2 to 5 years.

Mr. President, I believe we must take a more personal approach to the problem of fair hiring. Persons who feel they have legitimate grievances deserve top priority in our attention. So that all of my colleagues may become better acquainted with this problem, I ask unanimous consent that the two Journal articles be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 22, 1974]

THE ANTIBIAS BOTTLENECK

(By James C. Hyatt)

WASHINGTON.—The nation's job-discrimination cops are beginning to get a bit of tarnish on their badges.

That may surprise employers who feel that the Equal Employment Opportunity Commission still vigorously pounds the beat, and their treasuries as well. EEOC probes of individuals' complaints of race and sex bias have won countless jobs and millions of dollars in pay for minorities and women.

But civil rights groups and congressional critics increasingly fear that while the EEOC is acquiring the clout of a major regulatory agency—its budget has risen twenty-fold in a decade, to $44 million—the agency is starting to show some bureaucratic warts.

The EEOC's ever-rising backlog of unresolved discrimination complaints raises the worry that individuals alleging race or sex bias can't count on the agency for prompt relief. At the same time, the sluggish progress of the EEOC's legal staff in the last two years in handling job-bias lawsuits is causing some members of Congress to wonder whether the agency should ever have been granted the right to sue employers. Also, recent congressional inquiries have turned up evidence of internal bickering at the highest levels of the commission, as well as intense struggles for administrative and policy-making power.

These problems, if left unresolved, are certain to be cited by the agency's critics as reasons why the EEOC's power should be curbed. That prospect pains the agency's supporters, who are maneuvering delicately to make "constructive" suggestions while avoiding the appearance of criticism.

THE BACKLOG PROBLEM

The EEOC's problems start with its backlog. Since the agency's creation by the 1964 Civil Rights Act, case filings have steadily grown, from 8,854 discrimination charges in its first full year to about 75,000 to 80,000 expected this year. Meanwhile, the agency has been unable to handle the incoming cases promptly; at last count, the backlog of unresolved charges was approaching 100,000.

And the mountain of unresolved complaints is worrying Congress. The House equal opportunities subcommittee held three days of hearings last month on the problem. "I have yet to see a federal agency quite as goofed up as EEOC," snaps Rep. William A. Steiger of Wisconsin, who sharply questioned agency witnesses. "It is imperative that Congress sees that EEOC meets its responsibilities promptly and effectively," adds Rep. Augustus F. Hawkins of California, the subcommittee chairman.

Similarly, the top two members of the Senate Labor and Public Welfare Committee recently sent the EEOC a long memo discussing "significant deficiencies" in commission operations. The letter, from Chairman Harrison A. Williams (D., N.J.) and Jacob Javits (R., N.Y.), declared that the EEOC's investigation process "constitutes a major bottleneck" in handling cases. In January, they found that 20 percent of the EEOC's jobs for investigators and conciliators were vacant.

Moreover, the Senators added, "The Justice Department reports that their investigators must often re-investigate cases referred to them by the commission because the original investigations are inadequate." The Senators also assailed the EEOC's record-keeping system. "Many charges and cases are simply and irresponsibly lost," and many others aren't properly accounted for, they said.

The House subcommittee hearings turned up blunt admissions of sloppy workmanship and procedures at the agency, and indications—long believed by the business community—that the EEOC hasn't always been even-handed in investigating discrimination charges.

As of last May, more than 20,000 of the charges on file were at least two years old. EEOC General Counsel William Carey said it often takes 18 months to two years "before an investigator ever gets near a company plant or a union hiring hall" once a complaint is filed.

Many investigations haven't been "the kind of investigation you and I would want," EEOC Chairman John H. Powell, Jr., who joined the commission last December, told the hearing. Elaborating on the quality of investigations, General Counsel Carey said that before the EEOC had to defend its investigations in court, "whenever anybody filed a charge it was easier and more convenient . . . to find reasonable cause rather than not." Once such evidence was used in federal lawsuits, however, many investigations "did not pass muster" in the eyes of federal judges, he added.

Although Congress clearly intended for the EEOC to urge voluntary resolution of complaints, most cases never get that far. For the fiscal year ended June 30, only about half of the 8,611 complaints that did reach the conciliation stage were resolved. (Mr. Powell claims that's a lot better than the previous year, when only 4,970 cases reached conciliation and 2,279 were resolved. The agreements in the last fiscal year, he adds, "resulted in cash benefits exceeding $56.2 million" to more than 49,000 workers.)

At the hearings, Commissioner Colston A. Lewis complained that recent chairmen, including Mr. Powell, have sought to "divert all the power out of the hands of the commission into the hands of the chairman." For five months earlier this year, he said, there was "nobody to take the minutes" at the commission sessions. And he said Mr. Powell often individually asks General Counsel Carey for legal opinions and then doesn't circulate them to the commission for "a month or two."

Business executives hope the agency will begin reducing the backlog by effectively handling complaints on a case-by-case basis, more carefully screening charges and promptly trying to resolve employe grievances.

"I have charges in my files going back to 1969," complains a division personnel director of a major consumer products company. "The oldest complaint has been untouched by the EEOC," he adds. "It exists as a piece of paper, and has a charge number on it. But there's been no contact on it." Indeed, back in 1969, the charge didn't even show the name of the complaining employe, and the firm has no way to know whether the worker is even still on its payroll.

The EEOC increasingly has indicated it prefers to approach complaints through massive investigations aimed at cleaning up thousands of charges at once. The 1973 agreement with American Telephone & Telegraph Co. and the 1974 steel industry agreement are well-publicized examples. And the agency currently is investigating company-wide discrimination charges against General Motors Corp., General Electric Co., Ford Motor Co., and Sears, Roebuck & Co.

But that approach draws fire. "It is highly unwarranted for the commission to spend that kind of effort when individual complaints are going unresolved," Rep. Steiger asserts. EEOC Commissioner Lewis calls the broad company investigations "just as discriminatory as they can be. A person can't look for relief unless he's working for a big company. They're just setting up straw men and knocking them over."

CIVIL RIGHTS CRITICISM

Moreover, the AT&T and steel settlements are being criticized, by congressional investigators and by civil rights groups, as proving difficult to monitor, and as even being illegal. The NAACP Legal Defense and Education Fund, for example, is seeking to get parts of the steel settlement nullified. One key complaint involves back pay; the settlement commits the EEOC to recommend that complaining steel industry workers accept a back-pay offer. The agreement unduly ties the EEOC's hands, the critics insist.

The commission itself is feuding over another Powell proposal to help resolve job-bias charges voluntarily. For some time, the AFL-CIO has been asking the EEOC to send to international unions, and to the federation's civil rights department, copies of charges filed against union locals. Union officials "need to know where the problems are" so they can take action to resolve complaints, says William E. Pollard, the AFL-CIO civil rights director.

But Mr. Carey, the EEOC general counsel, rejected as possibly illegal a proposed "memorandum of understanding" between the commission and the AFL-CIO. Congress, he suggested, "did not intend the commission to enter into written agreements with others to investigate or enforce charges arising under Title VII" of the 1964 Civil Rights Act. The commission in August voted 3-1 against Mr. Powell's suggestion to make that sort of arrangement with the AFL-CIO.

Congress sought to give the EEOC more legal clout in 1972 by granting it authority to sue employers directly; previously, if the commission found "reasonable cause" to conclude that a firm had discriminated, and if the matter couldn't be conciliated, the charging party could get a "right-to-sue" letter and file a private lawsuit.

The EEOC quickly beefed up its legal staff and with 280 attorneys and five litigation centers has become, in effect, one of the nation's largest law firms. But the legal proceedings have moved much more slowly than expected. During the first half of fiscal 1974, the legal staff filed less than half of the planned cases, the Javits-Williams letter noted. And the Senators found "a significant number" of cases being returned to investigators by the litigation centers because of poor investigative work.

Since gaining the right to sue, the staff has filed only about 300 lawsuits, prompting EEOC Commissioner Lewis to remark: "I could handle all of them myself with two clerks."

Many EEOC cases have bogged down in court over procedural points, and only a handful have actually gone to trial. Consent decrees have been issued in about 40 of the cases.

JUDICIAL COMPLAINTS

Some lawsuits have been thrown out of court because the EEOC failed to properly use the conciliation process. And some judges object to the EEOC's taking a single discrimination charge and expanding it into a broad general complaint. In August, for example, a U.S. district judge in Maryland declared the EEOC improperly brought sex discrimination into a race-bias charge against Western Electric Co.

In some instances, judges have sharply criticized individual EEOC attorneys for their behavior. One judge was outraged earlier this year when EEOC attorneys without his knowledge placed an advertisement in St. Louis papers seeking the names of persons who had been turned down for jobs at a firm the EEOC was suing.

"Such conduct is wholly and totally reprehensible and is inconsistent with the high conduct required from an officer of the court," the judge declared. Further such conduct would result in dismissal of the lawsuit, he said.

Despite the criticisms, Mr. Powell, insists the EEOC is "alive and well." He's promised Congress to start processing cases much faster, and he's hired Booz, Allen & Hamilton, the management consulting firm, to recommend organizational changes at the commission. Mr. Powell is expected this week, in fact, to announce some reorganizational moves, apparently based on the Booz, Allen study. The EEOC chairman has proposed more voluntary agreements with employers to eliminate company-wide job bias. But, he adds, as a result of the agency's recent legal actions, major corporations know that "if necessary, we will take them on."

DELLENBACK'S QUESTION

Congress is finally waking up to the fact that something has gone haywire in federal efforts to end hiring discrimination. As our Mr. James C. Hyatt recounts in an article elsewhere on this page, one House committee has turned up an amazing, but not surprising story of disarray in the Equal Employment Opportunity Commission. In separate hearings, the House Education subcommittee has provided some insight into the way the Health, Education and Welfare Department's "affirmative action" program for college faculties has been perverted into a racial and sex-biased quota system.

The trouble, it seems, begins with HEW's method of proving discrimination, something it calls measuring "parities." Instead of producing charges from some aggrieved party, all you have to do is show that the faculty has a lower proportion of women or minorities than you think it would have with no barriers. Then you give the school a timetable to meet your "goals" for the right proportions. HEW has been claiming it can do this without requiring quota hiring, which Congress has declared illegal.

This claim didn't hold up too well, though, when Congressman John Dellenback of Oregon gave the HEW bureaucrats some unaccustomed exercises in logic. During the hearings, he posed to each witness the following question:

Say you have a faculty of 1,000 white males, the result of past discrimination. You want to correct this, but there's a 20-year turnover, so you only hire 50 new people a year. If you judge these on the merits, maybe 10 would be "minority" and 20 would be women. But by the end of five years, your faculty proportions are still way below "parity." Is this good enough, since there's been no discrimination in each year's hiring? Or does the college have to go out, year after year, taking in women and minorities regardless of their merits until it meets the required proportions?

The difference here, of course, is the difference between no discrimination and "reverse discrimination." And Peter Holmes, director of HEW's Office of Civil Rights, admitted under Rep. Dellenback's questioning that, yes, reverse discrimination was what his people required. Mr. Holmes steadfastly maintained that he was talking about "goals" with timetables, not quotas, but under these conditions, it's hard to tell the two apart.

As both these hearings suggest, the bureaucracy has gone astray on "affirmative action" because it has followed the path of least resistance and tried to enforce across-

the-board regulations instead of judging individual complaints. So the people who feel they really deserve redress go ignored, as with EEOC's backlog of up to 100,000 unresolved charges, while institutions across the country are sacrificing their quality as a punishment for the sins of society.

The Congressmen at these hearings were obviously surprised to see what the bureaucracy had done with their antidiscrimination laws. But Rep. Dellenback will have to ask his question repeatedly before the people at HEW realize where they are going wrong.

TWENTY-SIXTH ANNIVERSARY OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, today we mark the 26th anniversary of the proclamation of the Universal Declaration on Human Rights by the General Assembly of the United Nations.

This remarkable document recognizes the crucial interdependence of peace and human rights in the world community. It sets forth very basic rights that are necessary if men are to live in dignity. It includes the rights of justice and freedom; of movement within and beyond the border's of one's country; of information, assembly and association; of health, education, and well-being.

Since its adoption, the Universal Declaration on Human Rights has exercised a quiet, yet powerful, influence throughout the world and here at home. Many of the newly emergent third world nations have incorporated its tenets within their own constitutions. It has also served as a model for municipal legislation and, has been cited by court decisions as well. In short, it has served as a yardstick for measuring respect for and compliance with international standards of human rights.

In the intervening years, a number of human rights treaties have been drafted to implement the high ideals of the declaration. There have been treaties outlawing genocide, slavery, forced labor, and one recognizing the political rights of women.

Unfortunately, the Senate has moved slowly on ratification of these treaties. It has always seemed a real tragedy that our Nation, which has proven so conclusively the practical effectiveness of our own Bill of Rights, would be reluctant to lend its support to international efforts to safeguard these same basic principles.

In the case of the Genocide Treaty, this convention has been before the Senate since 1949—a full quarter-century—and there has yet to be a vote on the treaty's merits.

Certainly, the concepts of the Declaration on Human Rights and the accompanying treaties are as relevant now as the day they were drafted. As we confront scarcities of natural resources and food on a global scale, the questions of life and death and human dignity will loom large.

We can no longer shirk our responsibilities in the human rights field. We must ratify these treaties.

As President Kennedy once said:

In the final analysis, isn't peace a question of human rights?

THE NEED FOR MANDATORY ENERGY CONSERVATION PROGRAMS

Mr. PERCY. Mr. President, last Thursday evening I had the privilege of addressing the annual dinner of the Chairmen and Deputy Chairmen of the Federal Reserve Banks.

In my remarks I emphasized the need for mandatory energy conservation programs and outlined a number of measures I feel should be taken to achieve substantial energy savings. I ask unanimous consent that my remarks be printed in the RECORD.

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

REMARKS OF SENATOR CHARLES H. PERCY TO THE ANNUAL DINNER OF CHAIRMEN AND DEPUTY CHAIRMEN OF THE FEDERAL RESERVE BANKS, DECEMBER 5, 1974

We have all heard the old New England adage that says, "Everybody talks about the weather, but nobody does anything about it."

The same preoccupation, and perhaps even the same inability to affect change, seems to apply to the country's number one domestic problem: an unstable economy marked by runaway inflation, deepening recession and rising unemployment.

Discouraging economic news is a constant presence in our lives. From the time we read the morning newspaper to the time we view the late news on television, we are bombarded with grim statistics, dire predictions and varied theories on the economy.

A brief sample of recent news items makes the point:

The Gallup Poll reports that 72 percent of Americans predict a worsening economic condition over the next six months. And 71 percent think there will be more people out of work in their communities in the next six months.

The cost of living rose .9 percent in October, which projects to a 10.8 percent annual inflation rate. Food prices rose 1.6 percent. The purchasing power of an average hour's work is now worth 2.7 percent less than a year ago.

The Gross National Product—the total of all goods and services produced in the U.S.—has declined for three straight quarters this year and is expected to continue to show a negative growth rate through next June.

Because of a severe drop in car sales—down 27 percent in October and 35 percent by mid-November—the big three car manufacturers have implemented widespread plant closings and layoffs of both white and blue collar workers. This action will boost the nation's unemployment figure, which stood at estimates that unemployment will reach 7 percent by spring, adding another 900,000 persons to the unemployment roles.

The list of depressing statistics seems endless. In human terms the effects are devastating—idle workers trying to support families, and persons such as the elderly struggling to make ends meet on meager fixed incomes. What's to be done?

Our present dilemma is not an absence of options to improve our lagging economy. It is a lack of resolve to take action on any one of a number of options available to us. Neither Congress nor the Administration seem willing to set tough policies to help cure our unstable economy. And this is happening at a time when the American people are desperate for leadership. I have no doubt that the people will respond to leadership that calls for sacrifice. The question now is whether their leaders have the will to make tough decisions with dispatch.

When President Ford outlined his anti-inflation proposals in October, he said he would not hesitate to take stronger action if voluntary measures failed. Now there is talk that he may consider an additional gas tax, gas rationing or other mandatory actions to fight inflation. But the President is not expected to make recommendations until next month, perhaps when he delivers the State of the Union message. And the 94th Congress, which will convene on January 14, is unlikely to begin consideration of legislation to improve the economy until after it completes its preliminary organization, which may take weeks. We simply don't have two months or so to wait before taking action.

I believe Congress must act now by approving legislation that would require mandatory fuel conservation, including a minimum of a 10-cent per gallon increase in the federal gasoline tax. Also, Congress must make tough spending decisions to assure that the federal budget deficit does not exceed $10 billion.

Mandatory fuel conservation is essential to our battle against inflation. We must cut fuel consumption in the United States if we ever hope to lower the world price of crude oil. I, for one, do not believe that voluntary conservation will do the job. The high price of crude oil is a world-wide problem, and the United States must take the lead by showing that we are serious about cutting consumption.

The oil-producing nations of the world now hold the oil-consuming nations in a virtual economic hammerlock. The world price of crude oil has increased 400 percent in the last year. The oil-producing countries will collect at least $80 billion this year, of which an estimated $22.5 billion will be collected from the U.S. This is 236 percent more than we spent for imported oil last year.

Even though the U.S. is more able to absorb this staggering price increase than most nations, the increase has caused a five to eight percent rise in the wholesale price index. For less affluent countries, the price increase has brought threats of economic ruin and even starvation for thousands of their citizens.

The high price of imported oil has deep roots in the politics of the Middle East. Last year's Arab oil embargo followed the outbreak of the fourth Arab-Israeli war. The threat of another war, and perhaps another oil embargo, is with us again today. Diplomatic efforts in the next few months in the Middle East may determine if we set a course toward peace and economic security or war and continued economic chaos.

While diplomatic success is the key to stability in the Middle East, we must join our allies in safeguarding our oil supplies in the event of another war and oil embargo. Formation of the International Energy Agency, which calls for oil-consuming nations to stockpile adequate supplies of oil, is wise and prudent. Through this agency, the United States and its allies will be protected in the event of a widespread embargo or a selective action designed to deprive one or a number of nations of needed oil supplies.

We must also support the effort of oil-consuming nations to recycle petrodollars. Because oil-producers are collecting so much capital from oil-consumers, many nations are virtually on the brink of bankruptcy, unable to sustain their economies through private financial institutions. Recycling petrodollars is a short-term remedy at best, but it does address the need to make capital available to nations that are hard hit by the swing of the balance of payments pendulum in favor of the oil-producers.

Here at home, we must take tough actions—and I mean tough actions backed by law—to conserve fuel and lower the world price of crude oil. We simply can't afford to be fuel gluttons while the oil-producing

countries hold us hostage with high oil prices. We must send them a message, namely that we are dead serious about cutting consumption as long as they insist on maintaining the high price of oil.

I intend to offer five energy conservation proposals in the form of legislation and urge that they be adopted now. If passed, these measures would not be implemented for 60 to 90 days. So time is of the essence.

First, we must impose a 10-cent per gallon increase in the Federal gasoline tax, with authority to increase the tax in stages to 30-cents a gallon if necessary. The tax would be accompanied by a plan to provide rebates to consumers for essential driving. If we adopt the 10-cent tax increase, a registered car owner would receive an annual tax credit of $50 a year, or 10 cents times 500 gallons (the average driver consumes 700 gallons a year, of which 200 gallons are considered non-essential). Special provisions would be made to rebate the $50 to drivers who are outside the Federal income tax structure. This tax and credit plan, which the Federal Energy Administration says will save 250,000 barrels of oil a day, would provide a financial incentive to conserve fuel. Henry Ford has endorsed a 10-cent increase in the gas tax, even though he admits that it probably would hurt car sales. But he strongly stated that our leaders in Washington must act *now* to restore consumer confidence in the future.

Second, we should tax the sale of new cars based on fuel efficiency. Persons who buy a car that delivers more than 16 miles-per-gallon would receive a cash rebate from the federal government on a sliding scale, up to $280 for a car that gives 24 miles-per-gallon or more. Persons who buy a car that gives less than 16 miles-per-gallon would pay a tax that would start small and reach a maximum of $680 on cars that deliver 8 miles-per-gallon or less. The scale for taxes and rebates would move upward at the rate of one mile-per-gallon a year to encourage the production of more fuel-efficient cars.

Third, we must abolish the Highway Trust Fund. For too long, the Highway Trust Fund, with its narrow aim of highway construction as the prime transportation need, has blocked adequate funding of alternative forms of transportation. We must find lower-cost, more efficient ways to move large numbers of persons. Highway Trust Fund money moved to general revenue accounts would be earmarked for transportation but could be used for a variety of transportation needs, such as expanded and more efficient rail and bus lines.

Fourth, we must insure strict enforcement of the 55 mile-per-hour speed limit by authorizing the Secretary of Transportation to suspend payment of federal highway funds to states that show poor performance in enforcing the law. We must establish rigid requirements to test enforcement of the law. The 55 mile-per-hour speed limit, which has now been extended indefinitely, can save 12,000 lives and 73 million barrels of oil a year if strictly enforced. It makes no sense to pass a national speed standard and then casually ignore widespread violations.

Fifth, we must stop squandering valuable energy by heating and cooling the out of doors. Mandatory minimum standards for insulation should be imposed on new construction and strong incentives should be developed to encourage proper insulation of all existing structures.

These measures can be enacted *now*. The very health of our economy, and our position as a world economic power, may depend on our will to adopt tough fuel conservation measures.

In a recent speech in Chicago, Secretary of State Kissinger put the challenge bluntly. Oil producers are manipulating the price of oil freely because they act with virtual impunity, he said. And, in assessing the mood of the oil-producers, he frankly stated why they show little concern for our pledges of conservation and our fears of what might happen if we fail to act. Dr. Kissinger said:

"They are not persuaded by our protestations of damage to our societies and economies, because we have taken scant action to defend them ourselves."

Congress must take action now to show the oil-producers that we are serious about protecting our society and economy. Idle rhetoric will not do the job.

At the same time, Congress must show fiscal responsibility by making the hard choices needed to assure that the budget deficit for fiscal 1975 does not exceed $10 billion. We must chart a course of moderate restraint in spending, realizing that while more spending helps prevent higher unemployment, it also feeds the already soaring inflation rate.

President Ford now estimates the federal budget deficit at $9.2 billion. But this estimate is based on Congressional approval of the President's recent $4.6 billion budget cut proposal and the five percent surtax. These expectations are unrealistic. A more realistic estimate puts the budget deficit at about $17 billion, which is totally unacceptable in our inflationary economy.

Congress must keep the budget deficit at about $10 billion. It is up to the Congressional budget committees to get tough and realize that we must control spending to fight inflation. To compensate for growing unemployment, Congress must provide an adequate public employment program that could be financed by revenue raised through the increased gas tax.

Congress also should act now to boost the country's lagging productivity rate. Productivity has dropped consistently throughout 1974—a bad omen for the future economic health of the nation. I have called for creation of a National Center for Competition and Productivity, which would have a two-fold function. First the National Center would have the teeth needed to stimulate the formation of labor-management productivity councils in offices and factories throughout the country. Second, it would seek to eliminate barriers against productivity and competition such as restrictive transportation regulations. Congress should vote now to create the National Center and get on with the job of boosting productivity.

This dual program—decisive action to influence the world price of crude oil and tough decisions to forge a responsible fiscal policy—is the only effective way to meet the crisis of inflation, recession and unemployment. It is the only way to restore public confidence in the government's ability to manage our economic affairs.

Congress also must look ahead to early 1975 and prepare for additional action to meet the needs of our unstable economy. We must revise our tax structure as it affects oil companies that are making huge profits. We must expand our public employment programs and revise the income tax tables for low and middle income Americans who are earning more but find their inflated paychecks buying less. And we must continue to build economic strength by increasing the investment tax credit and removing planting restrictions on more crops to boost production and lower the price of food—a major source of inflation.

There is no substitute for leadership in a time of national need. Today we face economic threats that must be met and dispelled. I believe Congress has the expertise to meet these threats and provide the kind of leadership the American people demand and deserve. Now it must show the will to act.

HEARINGS ON THE FOOD SITUATION

Mr. McGOVERN. Mr. President, today two subcommittees of the Committee on Agriculture and Forestry opened hearings on the U.S. food situation and world commercial and food assistance demand.

The serious challenges we face in confronting the need for a more rational food and farm policy were articulated by several outstanding witnesses.

I ask unanimous consent to have printed in the RECORD statements made at the hearing by myself, the Senator from Iowa (Mr. CLARK), and Mr. William Helming, president of Livestock Business Advisory Services, Kansas City, Mo.

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

THE FOOD SITUATION: IS THE WORST YET TO COME?

The tinderbox that represents the food situation here and throughout the world is a series of paradoxes.

Producers of cattle, hogs, sheep, poultry and dairy products are sustaining record losses while high prices prevent consumers from buying as much as they would like.

Producers of grain, at least those who were not wiped out by too much or too little moisture, are looking at prices ranging from 110 to 150 per cent of parity—but see also the ever-present uncertainty of a collapse on top of record high production costs.

While still-undetermined numbers of people throughout the world face starvation and malnutrition, good dairy cows go for $12 to $15, if there is a buyer who can afford to feed them.

But the cruelest paradox of all is the attitude of the United States Department of Agriculture. After more than 100 years of helping farmers and ranchers through hard times, its hands-off policies today tell families that if they can't make it on the farm, they would be better off looking for work in the cities. And in the cities the unemployed hear statements like today's from USDA: another six months of food price increases at an annual rate of 15 per cent.

And the President tells the poor that they will have to pay more for food stamps, so Federal spending can be reduced without endangering the bloated profits of the military contractors.

In many respects, the farm situation today is not unlike that of the early 1930s in the farm belt. While $30 hogs do not appear like $3 hogs, neither does a $20,000 tractor seem like a $1,200 tractor.

The likeness is the cost-price squeeze; livestock producers are locked in a loss position from which they see no escape for two years or more.

When one remembers the farm insurgency of the 1930s, it is surprising that history has not repeated itself to a greater degree. We have seen angry farmers shoot calves and dairy cows and dump them into a ditch for the benefit of the television networks.

Thursday noon, a number of stockmen from my state will pay a call on the Department of Agriculture—with 50 head of cattle, a portion of which they would like to give to the Secretary to show the American people how severe their losses really are.

Thursday night, another group of livestock producers will be meeting in my state to try to mobilize their supplies and their community business people with the realization that their economic fate, too, hangs in the balance.

There are disturbing parallels with the circumstances which led the mayor of Sioux City, Iowa, W. D. Hayes, to remark in 1932: "This movement threatens to sweep the Midwest like wildfire. It is a protest against an unbearable economic situation, a situation in which farmers can't even support families, let alone pay taxes and debts. This is a serious situation; it would be a mistake to minimize the dangers."

Too many people in the Administration, and perhaps too many of us in the Congress, tend to minimize the dangers in our present food situation.

If we continue to do so, it is at the greatest risk to our domestic economy and to our aspirations for stability and peace throughout the world.

We must not permit our family farms and ranches to be swept aside while corporate agribusiness prospers.

We cannot allow farmers and ranchers to be broken by high input costs while big oil profiteers go unchecked.

We cannot permit half a billion people to die for lack of food while oversupplies of meat and dairy products continue to deflate prices and bankrupt our producers.

Our food situation is a powder keg. The Administration appears content to back away even further. There is not much question where the buck stops. It is already here—in the Congress.

Both Congress and Administration reacted to the crushing farm depression of the 1930s. This committee held hearings in twenty states in 1937—and it produced the Agricultural Adjustment Act of 1938, which has served as the basis of our farm programs ever since.

That period was a turning point for American agriculture. We are at or near a similar point today. We can leave our farmers and ranchers at the mercy of a "market oriented" agriculture which will crush them more often than it rewards them, or we can take action which will restore a larger measure of stability to our marketplace.

The choice, it appears to me, is between stable prices fair to all, and more of the chaotic market that hurts farmers and consumers and rewards only a few of those in between. Only the option of stabilization is really in the public interest.

The vehicles to achieve this end are before us. Chairman Talmadge has assigned the highest priority to revision of the farm program when the committee reconvenes early next year.

We must seize that opportunity to fashion longer-range solutions—increased price protection, development of a food reserve carefully separated from the commercial market, and improvements in our foreign food assistance mechanism.

But the bankruptcy courts will not await the thoughtful deliberations of the congress. We should act now on emergency measures.

One is the bill which I have introduced, with seven cosponsors, to provide for the purchase of $1 billion to $2 billion in meat and dairy animals and products, and for their donation through existing foreign and domestic food assistance programs.

This bill would have the effect of removing from the market a significant part of the estimated 4 million to 6 million head of surplus beef animals and, properly administered, an adequate share of the oversupply of dairy and poultry produce.

It would likewise make high-protein food available to those most in need—at least a partial solution to the paradox of poverty at both ends of the protein food chain.

It is my understanding that this legislation is moving in the House Agriculture Committee. It is gaining support from a broad spectrum of the public—from farm organizations across the ideological spread, from labor unions whose workers are out of jobs, from voluntary agencies seeking answers to the challenge of hunger worldwide. In short, it is the kind of interim answer which the 93rd congress can provide during the few days remaining.

It is my hope that testimony received today and on Thursday will be helpful to the Committee in development of the response which our producers and consumers look to us to provide. We cannot wait for others to act; we must provide the answer.

OPENING STATEMENT BY SENATOR DICK CLARK

(Hearings on the U.S. Food Situation and Foreign Commercial and Food Aid Demand)

Periodically this past year, the Senate Committee on Agriculture and Forestry, through its various Subcommittees, has conducted reviews of our nation's food and agricultural supply, along with demands made on that supply by both domestic and foreign users.

As most Americans and others today are well aware, 1974 has been a most difficult year in which to accurately forecast agricultural crop production or market demands that are made on such supplies.

With U.S. and world grain reserves now drawn down to dangerously low levels, we now know—more than ever before—the tremendous overriding importance of weather and its direct relationship to man's most basic commodity, namely, food.

And yet, while adverse weather conditions both here in the United States and elsewhere in the world this past year have greatly reduced available supplies of grains and other farm products, we find ourselves with some excess dairy supplies and a rather substantial reserve supply of beef, which admittedly, for the most part, is still on the hoof.

This combination of short grain supplies at relatively high prices, and excessively large cattle numbers, especially beef cows, is creating one of the most serious challenges ever posed to our nation's market-oriented agricultural system.

As U.S. poultry, hog, dairy and cattle-feeder producers are forced to pay higher feed grain prices—in part due to foreign demand—they are finding it increasingly difficult to recover such costs when marketing their products. And as this cost-price squeeze narrows or places them in a loss position, most of them have no option other than to liquidate or reduce their animal, or bird-feeding demand levels.

As they liquidate through increased marketings to reduce feedcost losses, market prices for their products drop accordingly, thus adding further to their price-cost problems.

Further exacerbating this situation, of course, is the large number of beef cattle, especially beef cows, still being held today on our nation's grass and rangelands. The reduction in fat-cattle demand, and increased marketings of poultry and hogs are further adding to the market price problems already facing these cow-calf operators. And in some areas, some of these operators are also faced with poor winter grazing conditions and high hay prices, which may force many of them to increase the slaughter marketing of their animals despite currently depressed market price conditions.

And while we try to deal with the imbalances and adjustments that are now unfolding within our agricultural and food system here in the United States, we must do so keeping in mind our obligations to people throughout the world who depend upon us as an essential supplier of farm and food products as much as American consumers themselves do. Some of these foreign buyers can and do compete very effectively with U.S. users for our nation's farm products. In fact, those nonmarket economy buyers, such as Russia, are increasingly making big buys in our market and in other world markets—even at high prices—depending more often upon political, than upon economic, considerations.

And then there are those foreign consumers who can afford little or nothing to purchase food supplies from us, even though such supplies may often mean life or death. The food supply problems of such people were the subject of the recently held World Food Conference in Rome, in which I and several other Members of Congress participated.

How do we as a nation reconcile all of these demands placed upon our food supply, especially during this particular period in our history when supplies of our most basic food and feed grains are in such short supply?

Do we merely sit back and let the marketplace ration and allocate supplies based on price alone?

Or should we encourage the Federal Government to step in and completely control the market and allocate supplies on some basis other than price?

Or, are there other means available to us for equitably sharing our nation's limited food abundance in this period of world scarcity within the framework of our market economy and humanitarian concerns?

The purpose of these two days of hearings is to conduct a thorough review and analysis of available U.S. grain supplies—now that 1974 crops have been harvested—and our nation's ability to meet both U.S. and foreign demands being made upon that supply—hopefully without making any major adjustments in our nation's market-oriented economy. However, to the extent that such a goal is *not* entirely attainable, we must, in my judgment, be prepared to make whatever adjustments may be necessary, in terms of national governmental policy, to assure sufficient equitable sharing of our nation's food and feed supplies among our domestic market, the foreign commercial market and foreign food aid demands.

And as we assess and try to meet such demands, we must also keep clearly in mind that most 1975 crops have not yet been planted, nor obviously been harvested.

Again, we must remind ourselves of how all-important weather conditions will be over this next year in the food producing regions of the world, especially here in the United States. We have no reserves of grain to fall back on should 1975 turn out to be a repeat of 1974. Therefore, until we know more as to how Mother Nature is likely to treat us during this next crop year, we and other nations of the world, must exercise great caution and conservation in the use and consumption of existing food and feed grain supplies!

And that brings me to our first witness today, Dr. Hurd D. Willett, Professor Emeritus at the Massachussets Institute of Technology in Boston, who hopefully will share us his insights with respect to future weather conditions that might be expected in the world food producing regions over this next year.

Later in these hearings, we expect to hear from a number of other experts—both governmental and non-governmental—as to their respective assessments of U.S. and world food production and marketing trends.

STATEMENT ON KEY SUPPLY AND DEMAND FACTORS AND PRICE PROSPECTS FOR LIVESTOCK AND GRAIN

(By William C. Helming)

A. INTRODUCTION

I appreciate having been asked to testify before these two committees today and outlining some of the current views that my staff and I have on the key supply and demand factors and price prospects for livestock and grain. My name is William C. Helming, and I am President and majority

shareholder of Livestock Business Advisory Services, Inc., which is a professional management and market consultation service for agriculture, headquartered in Kansas City, Missouri. In an effort to lend order to my presentation, I will review the following major subjects in sequence: The Grain Situation; The Livestock and Poultry Situation; The U.S. and World Economy; Conclusions; and finally, our recommendations.

B. THE GRAIN SITUATION

It goes without saying that livestock and grain prices and supplies are highly interrelated. It is easy to say that feed and forage costs influence livestock production, and this past year demonstrates just how devastating the change can be. Just having a return to normal planting, growing, and harvesting conditions, while avidly welcomed, is not a guarantee that livestock production and/or markets will return to either profitability or normality. Still, it is incumbent upon us to take a basic approach to the feedgrain and livestock sectors of the economy. The basic factors that influence these markets are, as they have always been, (1) climatological, (2) economical, and (3) political. We can only postulate normal weather patterns. However, you have experts who can give you the probabilities of abnormal weather, which will be either detrimental or beneficial to grain and livestock production in the future.

1. Climatological

While farmers in the United States will adjust their acreage intentions to suit their farming practices, their labor load, fertilizer supplies and prices, current market prices, and geographic location, there is no reason to assume any significant change in acreages from the past year. While preliminary surveys indicate substantial increases in wheat acreages, there is little to be gained by anticipating the formal survey of the Statistical Reporting Service report due out in another 13 days (i.e., December 23, 1974). We simply note that 1974/75 acreage increased 19% compared to the prior year. Total crop production, however, only increased 4%. Obviously, the important factor here is yield, and its response to unfavorable weather and disease.

The "all wheat" yield per acre during the past year was 27.8 bushels per acre, compared to 31.8 in 1973. It was higher than that in 1972 and 1971, and 1970 was only slightly below, being 31 bushels per acre. If wheat yields could return to 31 bushels per acre and if the acreage was 65 million acres for harvest, production in this country would exceed two billion bushels, compared to this year's actual production of 1.78 billion bushels.

The same kind of statement would apply to corn, where the yield in 1973 (91 bushels per acre) applied to the acreage for harvest of 1974 (63.7 million acres), would have provided a crop of 5.8 billion bushels. Even if that is not as high as the 6,700 million bushels first postulated for this past year's crop by the U.S.D.A., it would still be the highest production on record in this country. Trend yields are certainly far above 91 bushels per acre, but in our estimation there will be serious carryover problems of nitrogen fertilizer and also a healthy skepticism about ever-increasing corn yields for future years. Soybean production would approach 1,500 million bushels, by using the same line of reasoning. Although grain yields in the U.S. have increased significantly in recent years in response to improved plant breeding, technology and fertilizer applications, it is important to emphasize that a slight change in weather will have a very major impact on grain yields and production compared to last year.

2. Economic factors

Farmers are clearly going to look at continuing higher production costs. Current grain price levels promote the increased production of all major grains and oilseeds, although, obviously, relationships between the grains would tend to promote one in favor of the other. Farmers' intentions to plant soybeans and corn are always influenced by the relationships between those prices, but every farm organization will have ample time from the March 1975 acreage intentions report to guide their membership; and the net result will be that the acreage relationship (allocation) between major crops will not change much.

The real economic problems relate to (a) what is happening to the livestock cycles both here and abroad and (b) the state of the U.S. and world economy. The number of grain consuming animal units in this country appears to be dropping rapidly, and in this regard, we have to take a look at the remainder of the corn crop year. It does not seem necessary to review the latest Supply and Demand Statistics published by the Department. They are readily available to all and should be looked at in relationship to the impact of the recent World Food Conference.

There is no question that the consumption of all feedgrains must be reduced. This reduction will take place primarily by feeding less grain to animals. By far the largest amount of this reduction will take place in the United States. I also refer you to Exhibit A, which shows the dramatic drop in the stocks of wheat and feedgrains in the U.S. over the past fifteen years. The percentage decline between 1961–62 and 1975–76, in wheat and feedgrain stocks, amounts to 475% and 600% respectively.

I will go into more detail below on cattle, hog, and poultry numbers, plus the condition of the economy, but at this point in my comments, I want to point out that we have a high probability of *increasing grain production* in every category, while *reducing grain consumption* over the next several years, compared to this year's level of production. If we have normal and reasonably favorable weather conditions for the next three years, we believe then the prospects are very good for feedgrain and wheat prices to *trend lower* over the next several years compared to present levels.

3. Political factors

In the years preceding 1972, the price mechanism relative to grain was supplemented by governmental intervention through price support loan mechanisms and resale prices. Since 1972, there has been another form of governmental intervention, and that is restrictions on exports. This is a very real restriction, no matter how it is camouflaged. Some of the onus may be removed from American officials, however, because many of our trading partners are willing to help through "gentleman's agreements" to reduce grain imports into their respective countries.

The only conclusion that can be drawn here is that there will be a minimum, yet a reasonable carryover in each major grain at the end of their respective crop years. Postulating the same production figures outlined above, will result in a sharp increase in supplies, while at the same time grain consumption in this country, because of reduced grain consuming animal units and a poor economy, is going down.

There is the desire of every country with a shortage of grain supplies, to stockpile when surplusses reappear. Along with that is the worldwide inflation, that is reducing the purchasing value of every currency. The desire to hold goods, particularly non-perishable food-related commodities such as feed and food grains, will be enhanced by this country's and the world's economic situation now and in the next few years.

One cannot fail to comment about the effect of higher crude petroleum prices and their negative effect on this nation's and the world's economy. There is now general agreement that the U.S. economy is in a recession. There should be general worry as to whether this will progress into a depression. It would be inconceivable that only food prices would move upward, while all other prices are moving downward. Because of the need to do some stockpiling, it is worthwhile to state that it will take more than one year's good crops in the U.S. and most of the rest of the world, before the surplusses create the kind of problems that existed during most of the 1960's.

With the assumption that feedgrains will be in short supply until at least the next Northern Hemisphere harvest (the fall of 1975), then feeding ratios will continue to be adverse. Livestock cycles throughout the world have peaked at about the same time. Thus, the economic incentives for feed grain production will exist, while the domestic demand for feedgrains is reduced. If I can urge anything, it will be to *let the free market system and its concomitant profit incentives operate*. Nevertheless, we do not think that anyone can claim statesmanship, so long as there is starvation anywhere in the world, but particularly in this country, and we recognize the need for emergency reserves, granting that would be another modification of the free market system.

There is a very definite and real requirement to have incentives for production, and as long as price governs and does the rationing, no producer will continue to produce at ever decreasing prices. By the same token, prospective buyers would not continue an increase in their consumption at ever increasing prices. Likewise, there is no perfect balance between them, nor can you gentlemen in this room or anyone else create the climatic conditions that will guarantee the exact production needed to balance the supply and demand equations.

C. THE LIVESTOCK AND POULTRY SITUATION

The livestock and poultry industries have been going through the most severe cost-price squeeze and economic adjustment phase the industry has experienced in the twentieth century. Livestock prices have fluctuated widely—as much as 50 to 100 percent for cattle and hogs over the past year and a half. There are no signals that these stresses are going to be alleviated anytime soon, particularly for the cattle producer and feeder. Livestock and poultry prices and supplies have been directly affected both positively or negatively in the past, as they will be in the future by (1) weather, (2) forage and feedgrain supplies, (3) economics and (4) politics and government actions.

1. U.S. Cattle Supplies

Total beef cattle numbers (inventory) in the U.S. have been increasing at an accelerated rate from 1965 through 1974. We have been warning ever since February of 1973, about two years ago, that the build-up in beef cow and replacement numbers was far too rapid and would result in sharply increased cattle slaughter and feeder cattle supplies, plus significantly lower cattle prices, starting in the last half of 1974 and continuing at least through 1976. I draw your attention to Exhibit B, which was also a part of my April 4, 1973 Statement on why farm and food prices increased during 1972–73, before the Joint Economic Committee on Consumer Economics chaired by Senator Hubert Humphrey.

I also made a very similar warning and statement regarding the serious problems that would result from the rapid build-up in cattle numbers during early 1972. This statement was published in the March 1972 issue of the American Hereford Journal.

We are now in the beginning stages of liquidating cattle numbers. The cattle cycle has temporarily peaked out. The liquidation

phase will take at least two years and it likely will take three to four years, which is normal. Weather conditions over the next two to four years will be a major determining factor. Therfore, we expect total cattle slaughter and the resulting per capita consumption of beef to increase sharply between now and through 1978. I further draw your attention to Exhibit C, which gives our estimates of cattle inventory, cattle slaughter and per capita beef consumption from 1974 through 1981.

It is very apparent that the cattle industry has expanded too rapidly, both at the cow-calf and feedlot level. In addition, costs of production, particularly the cost of grain, feedstuffs and money. Government wage and price controls during 1973 were also very disruptive to the livestock and poultry industry. They were a complete failure and were clearly counter-productive.

It is equally apparent that cow and feeder cattle prices will remain under pressure and may even move lower for the next two to four years. Therefore, the rancher is faced with continued losses for some time to come, until (1) the cattle inventory liquidation phase is completed and (2) grain and feed prices come down significantly.

The cattle feeder, on the other hand, has a somewhat better situation to look forward to. We can see cattle feeding becoming profitable again over part of the next three years, primarily because of (1) relatively low feeder cattle prices compared to fed cattle prices and (2) lower grain prices than we have now. The effective use of the livestock and grain futures market will prove to be very helpful and essential.

The current economics of the cattle business can be further illustrated as follows: There are normally three major potential buyers of cattle and beef in the U.S. They are (1) the producer, (2) the cattle feeder and (3) the meat packer (food retailer and consumer). In contrast to the 1965–1973 period, the cattle producers is now a seller—not a buyer. The cattle feeder is now buying sharply reduced numbers of feeder cattle, whereas from 1968 through early 1973, the cattle feeder was buying practically every feeder animal that could possibly be fed. The meat packer, food retailer and consumer, as usual, are buying all the cattle and beef offered for sale. The big question is always—at what price will they buy the cattle and beef available, since it is a highly perishable commodity.

There has been considerable discussion recently about beef vs. grain. First, I want to emphasize again that a competitive and free market will do a much better job than some artificial government policy could ever possibly do in determining how much beef and meat the consumer will buy and at what price, vs. the direct consumption of food grains.

Second, there are vast quantities of land and forage in the U.S. and throughout the world that have no other economic use or value, other than for livestock grazing and production. The beef produced from grass and forage fed cattle is nutritious and has at least as much protein as grain fed beef does.

With the exception of the U.S. and Canada, and to a lesser extent Western Europe, most other beef consuming countries in the world eat strictly grass and forage fed beef. Both from an economic and humanitarian standpoint, a very strong case can be made for developing policies that will increase and encourage the production of beef by maximizing the use and further development of grass and forage lands.

Let me draw an analogy for you. My thesis is that everyone should have proteins in their diet, just as everyone needs transportation. In this country General Motors recognizes that there are buyers of the highest priced luxury automobiles—the Cadillacs; and there are more and other buyers of lower priced automobiles—Oldsmobiles, Pontiacs, Buicks; and there are still more buyers of the least expensive lines of Chevrolets. They provide for one basic need—transportation—and many different kinds of buyers. Grain fed beef should command a premium—it is a luxury, not a necessity. In the same sense, grass fed or short fed beef can be compared to the middle range of the automobile line. There are also vegetable proteins whose per-pound price and vast availability, along with good utility, that can help satisfy the smaller budget.

Finally, I believe that there is a great need for some forward planning on the part of the Federal Government regarding cattle numbers. With our total cattle numbers at the highest level ever, we could experience a national disaster in 1975 or 1976 if weather were to become unfavorable enough to severely curtail the output of both forage and feed grains. Under such circumstances, our carryover stocks of both feedgrains and forages will be extremely low, and we now know that fertilizer supplies will be limited and high priced for at least 1975 and 1976. Therefore, many cattlemen and farmers will not be able to justify any significant expenditures on fertilizers, because of the very low incomes which will be derived from cattle. This would force even further cattle liquidation, because large livestock grazing areas in the U.S. depend heavily on rather large applications of nitrogen fertilizer.

If we were to suffer a drought-induced feedgrain and forage crunch over the next two years, the numbers of cattle that would have to be slaughtered would be staggering and far above the capacity to be consumed on a fresh meat basis. Therefore, we believe it would be most prudent for the U.S. government to have some stand-by budget and plan available in the event of this kind of catastrophe so as to help transfer this extra supply of extremely high quality protein that is now "stored on the hoof" to some kind of canned, dried or frozen form, and thus be preserved for future use in either the U.S. or some other part of the world.

2. World Cattle Numbers, Hide Supplies and Beef Imports

Beef cattle numbers throughout the world have increased and peaked at about the same rate and time, as they have in the U.S. Therefore, there is a world-wide "beef glut". Because of the excessive supplies of milk and other dairy products in Europe, many dairy cattle are being slaughtered and converted to beef at the present time. Beef cattle inventory liquidation is occurring on a world-wide basis.

Due to the anticipated sharp increase in total cattle slaughter in the U.S. and in many other countries over the next two to four years, plus the current recession in the U.S., Japan and Western Europe, hide prices will tend to weaken further. Therefore, the drop in credit value for slaughter cattle will tend to get weaker in the months ahead, which will, of course, adversely affect cattle prices. The demand and use of leather appears to be increasing some, however, because of the relatively short supply and sharply higher prices of many products previously made from oil through the petro-chemical industry.

Realistically, there is no significant outlet presently for American beef in any overseas location. The trade deficit balances resulting from the sharp increase in oil prices, plus inflation and liquidity problems in the countries of all potential overseas beef customers, have resulted in beef embargoes that are more restrictive than ever before in history. Such countries as Argentina, Australia, and New Zealand, however, will be directing increased supplies of their overseas shipments to this country, since it is the only available market left to them under present conditions. We will, in fact, be receiving additional shipments of beef from overseas instead of making shipments to them. Shipments of beef from Australia to the U.S. next year could easily be 25% to 50% *above* 1975 quota levels.

3. Pork and Poultry Supplies

(a) *Pork Supplies.*—The hog producing business is somewhat intermediate between the poultry and cattle business. It has a longer cycle and start-up time than does poultry, but a much shorter time period than for cattle. During 1974, hog producers have reduced numbers to the point where we are now looking at sharply reduced hog slaughter and pork production during 1975 compared to 1974 levels. The amount of this reduction will be 10–15 percent for the year.

Most analysts tend to look at the annual pig crop consisting of a spring crop (December through May) and a fall crop (June through November). This is the traditional way it is presented and done. However, if you are really interested in the slaughter and consumption of pork, one should pair the fall crop with that for the next spring; for that, by and large, is the crop that will be available for consumption in any given year. In other words, the fall crop that we have just farrowed in 1974 and the upcoming spring crop for 1975, will be the hogs and pork that will be consumed or available for consumption by the U.S. during the calendar year 1975. When you consider this combination, each pig crop segment (spring and fall) represents the fourth consecutive year of reduction in the size of the pig crop.

The fall and spring pig crops will total somewhere between 79 and 80 million hogs, compared with over 102 million hogs from the 1970 fall pig crop and the 1971 spring pig crop combined and that were available for consumption in the calendar year 1971. This is something over a 20% reduction in four years in the size of our annual pig crop as viewed from a fall and spring combination. Furthermore, this represents the smallest pig crop since the 1927–28 period. This 1974–1975 pig crop combination will probably not be greatly different than what we experienced in 1938–1939 and 1953–1954, but we will have to again go back to the fall of 1937 and the spring of 1938 to find a smaller crop than is in prospect for 1974 and 1975, which will be the pigs that are eaten in 1975.

It is my firm belief that most people have not yet fully appreciated the extent of this decline, and that is why I am emphasizing it before this committee. The swine industry has pretty well taken their financial lumps and made the necessary adjustment that is being forced by the reduced supply of feedgrains for domestic consumption. There is very little possibility that the available supply of hogs for slaughter in 1975 will change greatly from the figures I have indicated. There is some possibility that if grain crop production was trending toward the favorable side by the summer and fall of 1975 and grain prices were then declining from present levels, hogs would be fed to heavier weights and the supplies of pork increased to a limited extent. Average hog prices in 1975 will be above 1975 levels and will tend to be above cattle prices for most of 1975. However, because of the large supplies of beef expected for next year and a declining economy, hog price increases will be limited.

(b) *Poultry Supplies:* The poultry industry is very flexible. It has the shortest turnaround time, plus the most concentrated management control, plus the most sophisticated financing with a limited number of producers involved in the business. By and large, the poultry industry has absorbed its losses, made its poultry production adjustments, and is well on the way toward a relatively stable position. Poultry supplies in 1975 will be at least 8–12% below 1974 levels.

There is still a modest amount of poultry and turkeys in storage, but this will be liquidated soon and production will level out at a sharply reduced level in 1975 until such time as the ratio between feed costs and broiler prices will support an expansion.

It seems quite unlikely at this time that this would take place before the latter half of 1975, and only then providing the prospect for feedgrain production for 1975 looks favorable. Average poultry meat prices in 1975 will be above 1974 levels.

D. THE U.S. AND WORLD ECONOMY

The U.S. economy is clearly in a recession now. Our judgment is that the worst is still ahead of us. We are trending towards a depression. I refer you to exhibit D. We see the following key factors relative to our economy:

1. Consumer spending over the next 12 months, when measured by real dollars, will decline further. Consumers will likely become even more cautious in buying goods and services in the months ahead.

2. Reduced consumer spending will bring about a period of major inventory liquidation and production curtailment, resulting in increased unemployment for at least the next 6–12 months. Unemployment will reach the 7–10% area during 1975.

3. We are going into a period of price deflation. If the competitive free market system is allowed to function and a huge Federal budget deficit is avoided, inflation will not be near the problem over the next two years as it was for the past two.

4. There are no quick and easy solutions to the economic ills that now are plaguing this country. The recovery process and time period will take perhaps two to three years. Implementing wage and price controls in 1975 would, in my opinion, be a most serious mistake.

5. The U.S. economy, at best, will be flat during most of the year to come. We want to point out here that after the economic crash in 1929, the real damage was done from 1931 to 1933.

6. All of the industrialized countries of the free world are suffering from the same problems and to a more serious degree than the U.S. The United States Government will have to work diligently and in concert with the Common Market, Japan, Russia in order to keep the major countries from avoiding financial collapse. The Arab petroleum-producing countries are taking so much currency out of circulation that the liquidity crisis is far from over.

7. If you need a bench-mark, watch for the collapse of a major U.S. firm. If that occurs, then any remaining confidence will be eroded and the economy will deflate.

8. All of the underlying pessimism presented here can be partially overcome by recognizing that the American economy, while stagnating and in a definite recession now, is still the strongest and most dynamic economy in the world.

There are two other points that I wish to mention regarding the economy. First, the livestock economy, like the housing and automobile economies, are now in a depression. If the livestock economies worsen further or if the agricultural economy in general declines further during 1975, the impact on the total U.S. economy will be very negative and perhaps catastrophic. The impact of farmers and ranchers buying less trucks, tractors and other farm equipment, fertilizer, etc., will have a significant and multiplying impact on the total U.S. economy. Second, although the consumer effective demand for red meat up until now has been very good—even surprisingly good—we find it hard to believe that this pattern of excellent consumer demand for meat will continue at the same pace, in face of a declining economy and increasing unemployment.

E. CONCLUSIONS

Following below are the major conclusions that can be drawn from the foregoing:

1. The economy of the U.S. and of other free world industrialized nations are in a major recession. The worst is yet to come. Unemployment will rise further.

2. If we have just normal weather conditions for the next three years, the prospects are very good for feedgrain and wheat prices to trend lower over the next several years compared to present levels.

3. The build-up in beef cattle numbers in the U.S. and other parts of the world has been too rapid. The cattle cycle has peaked and we are now in the beginning process of cattle inventory liquidation. Beef cattle supplies will be up sharply over the next two to four years, compared to 1973 and 1974 levels.

4. The price recovery period will take longer for the cow-calf operator (2–4 years) than for the cattle feeder. The cow-calf operator faces continual financial losses for some time yet. The major determining factors regarding feeder cattle and cow prices will be (a) weather conditions and how long the liquidation phase actually takes, and (b) grain supplies and prices over the next several years.

5. We expect cattle feeding to show some moderate profits over a good part of the next three years because of (a) relatively low feeder cattle prices compared to fed cattle prices, and (b) lower grain prices compared to current levels.

6. Pork and poultry production in 1975 will be down at least 8–12% compared to 1974 levels. Both average monthly hog and broiler prices are expected to be higher in 1975 than they were in 1974.

7. Wage, price, and export controls are counter productive and disruptive. Implementation of the same old controls would prove again to be a serious mistake.

F. RECOMMENDATIONS

1. Allow, to the fullest extent possible, the competitive and free market system to work. It is the only system that will work and that has passed the test of time.

2. Do not impose wage, price, profit and/or rent controls. This would be a serious mistake. Be patient and give our free market economy time to work.

3. The above recommendations are based on economics, not on humanitarian feelings, which we share with others. The humanitarian aspects must be looked at and provided for within reasonable budget restrictions and a realistic emergency food reserve policy.

4. Be prepared for a price deflationary trend in the U.S. economy in the months ahead, coupled with further inventory liquidation, reduced production and sharply higher unemployment levels.

5. Be prepared to implement a contingency plan promptly, in the event that there is a period of unusually dry weather in 1975 or 1976, to handle the unusually large and staggering quantities of beef that would be forced on the market as a result. These useful proteins could then be preserved for future use domestically or in other parts of the world, in a canned, dried or frozen form. Hopefully, the plan will not be needed.

NOTE.—Exhibit A omitted.

EXHIBIT B

[Special report of Livestock Business Advisory Services, Inc.]

THE BUILD-UP IS TOO RAPID

We interpret the USDA January 1, 1973 Cattle Inventory Report as bearish especially from late 1974 to 1976. In addition, it appears as though both pork and feedgrain supplies will be substantially larger in 1974 compared to 1972 levels. Caution, restraint and positive action are the keys to a continued profitable cattle industry.

A 7% build-up in replacement heifer numbers, plus a 6% jump in beef cow numbers during 1972, spells trouble down the road. This sharp increase during 1972 in beef cow numbers is on top of previous significant jumps during 1970 and 1971. The increase in beef cow numbers during 1972 was 2,295,000 head or 245% more than the increase of 930,000 head during 1971.

To further illustrate the trend towards building beef cow numbers, cow slaughter was lower in 1972 than in any of the eight previous years (except 1970) since 1964. At the same time, a trend towards holding back significantly larger numbers of replacement heifers has been obvious since 1970. Cow slaughter under federal inspection in 1972 was 5,400,000 head or more than 4% below the 1971 figure.

We expect cow slaughter in the U.S. to start increasing during the 1974–1976 period, compared to the 1972–1973 levels. With a trend of increased cow slaughter between now and 1976, any increase in beef imports from foreign countries will have a pronounced depressing effect on domestic cattle prices during this same period.

This word of caution regarding too rapid a build-up in our cattle numbers may sound out of place in view of today's prices, but the commercial cow/calf operator is again faced with the important decision of how much to increase his herd inventory. It is a decision that will greatly affect the beef business for at least the next three to five years. We have now had three years of sharp increases in our beef cow inventory. With this trend continuing during 1973 and 1974, we believe that the favorable position which the cow/calf operator is in today will have eroded considerably by 1975. The results will be lower cattle prices than we have in 1973 and substantially larger feeder cattle supplies.

In the past few years, cattlemen have done an excellent job of efficiently producing a uniform supply of high quality beef which the consumer has come to readily accept. It is a case of regularly satisfying the consumer with predictable quality and uniform eating satisfaction.

To keep pace with the growing demand and consumer preference for beef, some growth in cow numbers is needed. The key question is how much growth is healthy and when do we reach the "too much" level?

We do expect personal incomes to further increase and therefore the demand for beef and pork to continue improving in the years ahead. However, the accelerated demand for meat during 1972 and 1973 has been caused in part by various government social reform programs resulting in a redistribution of income, allowing traditionally lower income groups to have more money to spend for beef and pork. For example, our government spent over $2 billion during 1972 in the Food Stamp program. In addition, there were two jumps in social security payments during the past 15 months of about 20% each. Furthermore, local, state and national welfare payments were at an all-time high in 1971–72.

During the 1974–76 period, it appears that these government programs causing accelerated demand and expenditures for beef and pork in 1972–73 will be leveled off, and in many cases, reduced. Therefore, the demand for beef and pork in the future will primarily come from increases in consumer personal incomes, population growth, and from whatever exports of pork and beef we are able to achieve to foreign countries, such as Japan. We believe, therefore that it is unrealistic to assume that the demand for beef and pork will continue to increase at the same accelerated rates during the 1974–76 period as it did during the 1971–73 period.

Relating this to the cow/calf operator, all the indicators point toward an ideal

steady growth rate in beef cow numbers of no more than 2.0% to 2.5% per year. This rate of growth would add about 820,000 to 1,000,000 head of new females to the breeding herd each year and keep supply and demand in a healthy balance for both the producer and the consumer. We believe that sound supply-management guidelines call for cow/calf operators to regulate their calving and replacement programs so that beef cow numbers do not increase more than 2.5% per year during the next three years. They should start now.

The trend of improved efficiency on the part of the U.S. cattlemen to obtain proportionately higher increases in beef tonnage from relatively small increases in the nation's cow herd, will continue for at least the next five years. Improved seedstock, better management, greater emphasis on fertility and the expanding feedlot industry all contribute greatly to having an adequate supply of beef available from a steady 2.0% to 2.5% per year increase in beef cow numbers.

The dairy cattle inventory in the U.S. has finally stabilized. For the first time in many years, dairy herd replacements are now increasing. This will result in even larger total beef supplies in the years ahead.

EXHIBIT C

LBAS ESTIMATE OF FUTURE BEEF SUPPLIES (1974-81)

LIVESTOCK BUSINESS ADVISORY SERVICES, INC., 715 HEREFORD DRIVE, KANSAS CITY, MO. 64105

	Cattle inventory numbers				Slaughter and meat consumption						
	All cattle and calves		Cattle on feed			Cattle and calf slaughter		Per capita consumption of beef and veal		Weekly average F.I. cattle slaughter	
Inventory date	Thousand head	Percent of 1974	Thousand head	Percent of 1974	Year	Thousand head	Percent of 1974	Pounds per person	Percent of of 1974	Thousand head	Percent of of 1974
Jan. 1, 1974	127,540	100.0	13,573	100.0	1974	39,000	100.0	119.5	100.0	617	100.0
Jan. 1, 1975	133,000	104.4	10,250	75.0	1975	43,000	110.3	126.5	105.9	674	109.2
Jan. 1, 1976	136,000	106.6	11,250	82.3	1976	46,000	117.9	130.0	108.8	717	116.2
Jan. 1, 1977	135,500	106.2	11,500	84.1	1977	47,500	121.8	130.5	109.2	734	119.0
Jan. 1, 1978	134,000	105.0	12,000	87.7	1978	49,000	125.6	131.5	110.0	752	121.8
Jan. 1, 1979	132,000	103.5	11,500	84.1	1979	47,000	120.5	126.5	105.9	728	118.0
Jan. 1, 1980	131,000	102.7	11,000	80.5	1980	46,500	119.2	124.0	103.8	719	116.5
Jan. 1, 1981	130,000	101.9	10,500	76.8	1981	46,000	117.9	122.0	102.1	721	116.9

Note: Assumptions—(1) Weather will be on dry side, but near the average; (2) Economy will enjoy moderate growth and prosperity over the majority of the next 7 years; (3) The Government will not arbitrarily limit domestic grain utilization; (4) Price of fertilizer will start to moderate by 1976 or 1977; (5) Population growth in the United States will continue to increase at approximately the present rate; and (6) Beef imports will continue at approximately the level of 1973.

EXHIBIT D

[Special Report No. 64 of Livestock Business Advisory Services, Inc.]

THE U.S. ECONOMY IN PERSPECTIVE

The purpose of this special LBAS report is to review the present economic conditions of the U.S. economy. It is partly repetitious, because some of these problems were brought out at the President's various economic conferences.

The usual classic signs of a serious recession are all present: rising unemployment, building and burdensome inventories, a very heavy public and private debt load, and a widespread problem of liquidity.

Inflation, however, continues to be a serious problem as price levels on most goods and services move upward.

All of the industrialized countries of the free world are suffering from the same problems and to a more serious degree than the United States.

The dilemma is that classic economic theory holds that recession and inflation are not compatible, and that both should not exist at the same time. The real frustration that now confronts our leaders is that they cannot take anti-inflationary steps without encouraging recession. Conversely, they cannot fight recession without encouraging inflation.

Economists Fall Into Three Basic Categories: (a) Those who think that the lack of liquidity already has caused a recession and, therefore, the right move is to have the national economy accelerated by those steps you have read about: tax relief, propping up the housing industry with additional mortgage funds, creating national work projects to give income to the unemployed, increasing unemployment compensation, and increasing the money supply and reducing interest rates; (b) those economists who believe that inflation must be dealt with first—that it is "public enemy number one". Their remedies include: tax increases, forced savings, restricted credit, and a more stringent fiscal policy; (c) those economists who believe that the present situation is beyond repair; that, in fact, the U.S. economy will inflate into depression and that our economy is now in the beginning stages of a major price deflationary trend.

Out of the conflicting forces of recession and inflation that erode confidence, you can expect to find that:

(a) Consumer spending over the next 12 months when measured by real dollars will decline.

(b) Reduced consumer spending will bring about a period of inventory liquidation and production curtailment, resulting in increased unemployment over the next 6–12 months. It will likely exceed 7% before stabilizing.

(c) Short-term interest rates are declining and probably will fall some more in the next few months; however, there is little likelihood that long-term interest rates will show any significant changes because of the need to modernize and enlarge our present industrial and agricultural industries in the U.S.

The conclusion is that there are no quick and easy solutions to the economic ills that now are plaguing the country. Reducing inflation will take months and will be painful. Unless the operation is conducted very skillfully, the effort to halt inflation could very well trigger a severe depression. The U.S. economy will decline further before it shows any signs of recovery, and this will take at least 8–12 months.

Listed below are some prices related to gold which show perhaps more clearly than anything else how the dollar has deteriorated in value. It also indicates why the current dedeal with the stagnating U.S. economy may be forthcoming in the months ahead.

		Wheat		Petroleum		Vegetable oil	
	London gold	Price of commodity metric tons	Ounces gold required	Price of commodity metric tons	Ounces gold required	Price of commodity metric tons	Ounces gold required
1970	[1] $35	$60–65	1.80	$540	15.4	$333	9.5
1972	65–68	60–65	.95	614	9.2	400	6.0
1974	150	176	1.2	3,377	22.5	1,000	6.67

[1] U.S. official exchange rate.

The President has tied food and petroleum prices together. Both are in short supply. The petroleum shortage is man-made. Food, feed grains, and proteins are in short supply because of adverse planting and growing conditions throughout the world, along with uninhibited population growth trends.

The conclusion that might be drawn from the above is that the United States economy will, at best, be flat during most of the year to come. There is an inclination here to point out that after the economic crash in 1929, the real damage was done from 1931–1933.

The United States Government will have to work diligently and in concert with the Common Market, Japan, and Russia in order to keep the major countries from avoiding financial collapse. The Arab petroleum-producing countries are taking so much currency out of circulation that the liquidity crisis is far from over.

If you need a bench-mark, watch for the collapse of a major U.S. firm. If it occurs, then any remaining confidence will be eroded and the economy will deflate.

All of the underlying pessimism can be overcome by recognizing that the American economy, while stagnating and in a definite recession now, is still the strongest and most dynamic in the world.

If our economic guides are skillful and we are blessed with a generous amount of luck, the economy could have some further sharp decline in the last quarter of 1974 and the first half of 1975 and then start a recovery.

Now that the November elections are behind us, more specific government actions to deal with the stagnating U.S. economy may be forthcoming in the months ahead.

BENJAMIN FRANKLIN'S APPEAL FOR PRAYER AT THE CONSTITUTIONAL CONVENTION

Mr. BROCK. Mr. President, on June 28, 1787, Benjamin Franklin rose at the Constitutional Convention and appealed to his colleagues that the assembly be opened every morning with prayers imploring the assistance of heaven and Divine blessing on the deliberations of the Convention. Although no action was taken at that time on Delegate Franklin's proposal, soon after this appeal by Franklin for Divine guidance, the Constitution was adopted and submitted to the 13 States for ratification.

Perhaps as a result of Benjamin Franklin's eloquent appeal, both Houses of Congress are now traditionally opened with prayer each day.

Mr. President, as we approach our bicentennial year, I feel that it is appropriate that Benjamin Franklin's statement be put in the RECORD. I request unanimous consent that the remarks be printed in the RECORD.

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

Mr. President

The small Progress we have made after 4 or 5 Weeks close Attendance & continual Reasonings with each other, our different Sentiments on almost every Question, several of the last producing as many Noes as Ayes is methinks a melancholy Proof of the Imperfection of the Human understanding.

We indeed seem to feel our own Want of political Wisdom, since we have been running all about in search of it. We have gone back to ancient History for Models of Government, and examin'd the different Forms of those Republicks, which, having been originally form'd with the Seeds of their own Dissolution, now no longer exist. And we have view'd modern States all round Europe, but find none of their Constitutions suitable to our Circumstances.

In this Situation of this Assembly, groping, as it were, in the dark, to find Political Truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of Lights to illuminate our Understandings.

In the Beginning of the Contest with Britain, when we were sensible of Danger, we had daily Prayer in this Room for the 'Divine Protection.' Our Prayers Sir were heard,—and they were graciously answered. All of us, who were engag'd in the Struggle, must have observ'd frequent Instances of a Superintending Providence in our Favour. To that Kind Providence we owe this happy Opportunity of Consulting in Peace on the Means of establishing our future national Felicity.

And have we now forgotten that powerful Friend—or do we imagine we no longer need its [his] Assistance?

I have lived, Sir, a long time; and the longer I live the more convincing proofs I see of this Truth, That God governs in the Affairs of Men!—And if a Sparrow cannot fall to the Ground without his Notice, is it probable that an Empire can rise without his Aid?—We have been assured, Sir, in the Sacred Writings, that 'except the Lord build the House, they labour in vain that build it.' I firmly believe this;—and I also believe that without his concurring Aid we shall succeed in this political Building no better than the Builders of Babel: we shall be divided by our little partial local Interests, our Projects will be confounded and we ourselves shall become a Reproach and a Byeword down to future Ages. And what is worse, Mankind may hereafter, from this unfortunate Instance, despair of establishing Government by human Wisdom, and leave it to Chance, War & Conquest.

I therefore beg leave to move, That henceforth Prayers, imploring the Assistance of Heaven, and its Blessing on our Deliberations, be held in this Assembly every Morning before we proceed to Business; and that one or more of the Clergy of this City be requested to officiate in that Service.

THE EVER-RISING COST OF AIR TRAVEL

Mr. CANNON. Mr. President, I wish to speak today about a matter which is becoming of increasing concern to millions of Americans; the ever-rising costs of air travel. Yesterday, in a Washington Post article dealing with the spiraling costs of vacations by air, it was pointed out that scheduled air fares in 1974 alone have risen by more than 16 percent. And, ironically, in 1974 most of the scheduled airlines are enjoying the greatest profitability they have known in modern times. Several of our large trunk airlines will cross the $100 million net earnings mark for the first time in history and many other lines are now earning profits well above the level established by the Civil Aeronautics Board as just and reasonable.

Just recently by a 3 to 2 vote the Board approved another 4-percent fare hike for the domestic airlines. Apparently, the Board must have been a bit embarrassed by its action because it didn't even issue an order explaining its action and justifying the increase. Two of the members, however, did issue a public dissenting opinion spelling out why they strongly opposed the fare hike and how in their view the increase violated the Board's own ratemaking formula established in the recent domestic passenger fare investigation.

At this point I ask unanimous consent that the dissenting opinion of members Minetti and West be printed in the RECORD.

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

STATEMENT OF MEMBERS G. JOSEPH MINETTI AND LEE R. WEST CONCERNING THE ADDITIONAL 4 PERCENT DOMESTIC PASSENGER FARE INCREASE EFFECTIVE NOVEMBER 15, 1974

In our judgment the domestic airlines have not demonstrated a need for an additional 4 percent, $304 million [1] fare increase at this time. The new fare increase is unwarranted on the facts, inconsistent with the Board's announced ratemaking policies, seriously inflationary, harmful to the traveling public and in the long run to the airlines themselves, and thus contrary to the national interest.

Last spring the domestic airlines were allowed to add a temporary surcharge of 6 percent to all domestic passenger fares, effective April 15, 1974, to compensate them for the then rapidly increasing cost of aviation fuel. The imposition of this surcharge followed a general 5 percent fare increase that became effective December 1, 1973, simultaneously with the second of three stages of the process of phasing out the family, youth, and Discover America fares, which the Board had previously determined to be unlawful.[2] The third and final stage of this phase-out took effect on June 1, 1974, each stage being approximately equivalent to a 1.8 percent general fare increase.[3] Thus in less than a single year, domestic airline fares have gone up a total of over 15 percent prior to the present increase, or nearly 20 percent including it.[4]

Furthermore, these rapid increases within the past year themselves follow both the first stage of the discount-fare phase-out in June 1973 and a series of fare increases totaling approximately 12 percent granted in connection with Phase 7 of the *Domestic Passenger-Fare Investigation* between October 1970 and September 1972.[5] Thus within approximately a four-year span, the cumulative increase in domestic airline fares has been over 31 percent without the present increase, and nearly 37 percent with it.[6]

Notwithstanding this history of increasingly frequent and burdensome fare increases, we reluctantly concur in the conclusion that the carriers should be permitted to extend last April's 6 percent fuel-related surcharge indefinitely and make it part of the permanent fare structure, since there appears to be no real likelihood that fuel prices will return to the levels of mid-1973 within the foreseeable future.

However, despite the further increase in fuel costs since last April, and the less dramatic but still very real increases in other airline costs over the past year, we are unable to conclude that the carriers have adequately demonstrated a need for an additional 4 percent increase in all domestic air fares at this time. On the contrary, the available data show that a further fare increase now will have an adverse effect on the movement of traffic, and is not essential to maintain the financial health of the domestic airlines and their continued ability to provide the air transportation required by the American public.

Similarly, both a proper application of the ratemaking standards developed by the Board in the *Domestic Passenger-Fare Investigation*, and a proper adjustment of the cost data used to justify a further fare increase, so as to remove distortions caused by last winter's fuel shortage crisis, show that no further increase is now warranted. We would therefore suspend and investigate the tariffs providing for this increase.

The harm that will be done by this increase is in no way ameliorated by the Board's action in requiring the carriers to place a June 30, 1975, expiration date on their tariffs, nor does the traveling public thereby gain any significant protection. At best, this unwarranted fare increase will be collected for a period of 7½ months, thus imposing close to $200 million in excessive and unjustified charges on the traveling public at a critical time in the fight against inflation. Moreover, it would require a remarkable act of faith to believe seriously in the possibility that fares will be rolled back next July 1. We expect, rather, that this 4 percent increase will in the event prove no more "temporary" than last spring's 6 percent increase.

THE BOARD SHOULD JOIN IN THE FIGHT AGAINST INFLATION

In considering the proposed fare increase, we do not believe that the Board can focus exclusively on the airline industry and its problems. On the contrary, it is essential that the Board take into account the total economic climate of the day, the most notable feature of which is a raging inflation, seemingly out of control, which threatens to destroy the value of the dollar and the savings of the American people.[7]

The President of the United States has called upon every citizen and every government agency to join in the fight against inflation. In this crucial situation, the Board has

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Footnotes at end of article.

a manifest duty to aid in the restoration of national economic health.

The Board also has a unique capability to limit further price escalation in one major sector of industry, and thus to contribute to the attack on inflation. The cost of transportation enters into the cost of most goods and services sold in our economy, and despite the considerable element of pleasure travel in air transportation, enough air travel is for essential business purposes so that any unwarranted increase in passenger air fares will clearly feed the inflationary spiral.

There has lately been much criticism of those actions of administrative agencies which operate artificially and unnecessarily to raise prices in the industries they regulate, and which thus contribute to inflation. Undoubtedly these inflationary effects are in general not intended by the agencies concerned; certainly our colleagues on the Board have no desire or intent to promote inflation. Nevertheless, the Board's failure to apply strict standards to the airlines' attempted justifications for the additional 4 percent fare increase has here resulted in just the sort of inflationary action which has been so much criticized.

THE BOARD SHOULD CONSIDER THE ADVERSE EFFECT OF THE FARE INCREASE ON THE MOVEMENT OF TRAFFIC

In Section 1002(e) of the Act, the Board is instructed that when exercising its rate-making powers it shall take into consideration "the effect of such rates upon the movement of traffic". This factor, indeed, is listed first among those the Board is instructed to consider.

The Board apparently believes that its statutory duty in this regard is fulfilled when it cites the −0.7 coefficient of price elasticity of demand for air transportation determined in Phase 7 of the *Domestic Passenger-Fare Investigation*.[8] We disagree. We think that the Act requires the Board to actually *consider*—to consciously and deliberately weigh in the balance of its decisional process—the deterrent effect of the present fare increase on the movement of traffic. To show a loss of traffic stemming from the fare increase in calculations in an appendix is not to take that loss of traffic into consideration, in the sense in which we understand the term "consideration". Here, we see no evidence that the Board has genuinely weighed in its deliberations this loss of traffic, and its consequential effects on the public, the economy, and the airlines themselves, in deciding to allow the fare increase to go into effect without either investigation or suspension.[9]

In their concurrence and dissent to the Board's *DPFI* Phase 7 decision, after discussing the evidence on elasticity of demand, Members Menetti and Murphy said the following: [10]

"What this discussion of elasticity effects means to us is that this Board should be extremely careful at this time not to impose or encourage a fare increase any greater than needed to meet the carriers' clearly demonstrated needs. If the carriers are operating at maximum efficiency, if they are bending every effort to eliminate excess capacity, if their costs are being forced up by inflationary influences which they cannot be expected to control, then a fare increase may well be the only solution. But if administered in excess, the cure may well prove worse than the disease. We cannot emphasize too strongly that the carriers' salvation lies primarily in cutting costs, adjusting capacity to meet demand, and getting paying passengers in a higher proportion of their seats, rather than in fare increases *per se*. An excessive fare increase will do nothing to further the first of these goals, will make the second more difficult to achieve, and will actively obstruct achievement of the third."

We think these same considerations apply with equal or perhaps even greater force today. Even if the available data showed a genuine present need by the domestic airlines for additional revenue—which, as will be shown hereafter, they in fact do not—the damaging effects of the fare increase on the movement of traffic ought to be a matter of serious concern to the Board. Whether this factor, alone or in conjunction with the inflationary effects of a fare increase, would be sufficient to require suspension of a fare increase which was otherwise impeccable on economic grounds, and was fully in accord with the standards of the *Domestic Passenger-Fare Investigation*, is a question we do not reach. For, as will be shown in subsequent sections of this statement, the present fare increase does not comport with *DPFI* standards and is not justified economically. But certainly, so long as there is any element of judgment and discretion entering into the Board's action on a fare increase such as this, consideration of its inflationary consequences and its ill effects on the movement of traffic ought to lead the Board to exercise that judgment and discretion in the direction of suspending and investigating the increase.

THE DOMESTIC AIRLINES ARE HIGHLY PROFITABLE AND DO NOT NEED A FURTHER FARE INCREASE

A primary consideration in appraising the need for a further increase in passenger air fares at this time should be whether or not the airlines are in urgent need of additional funds to maintain their operations. Perhaps if they were losing money or barely breaking even, or were faced with an intolerable cash squeeze, or immediate further $304 million fare increase [11] might be found essential notwithstanding its contribution to the nation's inflationary spiral. But as the Board's Consumer Advocate has contended, the available data in fact all show that the domestic airlines are prosperous, and in no need of a massive infusion of new revenues from a fare increase.

For the twelve months ended June 30, 1974, the ten domestic trunkline carriers [12] enjoyed operating revenues of $7.67 billion from their continental U.S. operations—the greatest such operating revenues ever—and earned an aggregate operating profit from these operations of $634 million.[13] By way of contrast, in the most profitable prior year in their history, 1966, the ten domestic trunks earned an operating profit of $454 million on total operating revenues of $3.66 billion.[14]

In fiscal 1974 these carriers' domestic return on investment after taxes totaled $426 million, for a rate of return of 8.13 percent.[15] This was not the full 12 percent return found by the Board to be just and reasonable in the *Domestic Passenger-Fare Investigation*, but it was a rate of return exceeded only three times in the past decade,[16] and only a few times (in the early 1950's) prior to that.[17] Moreover, when the data are adjusted to reflect the *DPFI* load-factor standard and a partial implementation of the *DPFI* discount-fare adjustment, the indicated trunkline rate of return for FY 1974 was 9.95 percent; [18] full implemenation of the discount fare adjustment would undoubtedly show a regulatory rate of return in excess of the *DPFI* 12 percent standard.[19]

Furthermore, citation of fiscal 1974 trunkline figures does not do justice to the airlines' current level of profitability, since calendar 1973 was not an especially profitable year for the trunks. Moreover, the local service carriers (which also will reap the benefits of this new fare increase, although the carriers' justifications are based entirely on the trunklines' asserted revenue needs) have been having far and away the most profitable year in their history, having earned operating profits of over $100 million in fiscal 1974, an increase of more than 50 percent from the preceding fiscal year, and nearly double their second quarter of 1974 alone, the local carriers had operating profits of over $40 million, greater than the full-year profits for any year prior to 1972, and approaching the $52.6 million earned in that year. For calendar 1974 as a whole, industry sources are predicting net profits after taxes in excess of $100 million.

Thus, for the first six months of 1974, the domestic operating profits of the scheduled trunk and local service carriers together reached $460 million, compared with $477 million for the *entire year* 1966, the most profitable in airline history prior to this.[21] Moreover, airline profits (principally domestic) have grown very rapidly in recent months. For the trunks alone, the following tabulation shows the growth pattern, especially the very steep rise from April on:

System trunks, 1974 cumulative year-to-date operating profits [22] *($000,000)*

January	(3.5)
February	(26.6)
March	33.0
April	92.1
May	159.2
June	325.0
July	444.7
August	646.9

The rise in local service operating profits has been almost equally steep. For the first eight months of 1974, system profits of the domestic trunk and local service carriers together (excluding Pan American) reached $724 million, compared to $602 million for the same carriers in the entire year of 1966 (at a time when international/territorial operations were producing far greater profits than they are today).

In the nine-month reports now coming in, carrier after carrier is announcing all-time record profits. A preliminary compilation of unadjusted nine-month trunkline operating results, appearing in the trade press since we issued our preliminary statements, shows nine domestic trunklines alone (omitting National) enjoying operating profits totaling $644 million and net profits after taxes totaling $325 million.[23] Considering the profitability of National Airlines and the fact that the local service carriers are obviously headed for an all-time record year, it is apparent that—absent an absolutely disastrous fourth quarter, which no one foresees—domestic carrier system operating profits in 1974 could well approach or even exceed a billion dollars. This would imply net profits after taxes approaching half a billion dollars and a return on investment approaching or exceeding $800 million for the year.[24] The overwhelming bulk of these profits will be on the domestic, 48-State operations with which the Board is concerned in the present fare case.

We have detailed these current airline domestic profit figures at length because the news has been dominated for months by the continued major operating losses and extremely grave financial situation of the largest U.S.-flag international airline, plus the less traumatic but still serious losses of the second largest such airline on its international operations. These substantial international losses have tended to obscure the fact that the domestic scheduled carriers as a class are today in excellent financial condition. This year every domestic carrier is profitable—after a number of years during which this was usually not the case—and in most cases very substantially so. Several domestic carriers are earning considerably in excess of a 12 percent return on investment, and the domestic industry as a whole is approaching this target.

In view of the foregoing facts, which are really not open to dispute, there is simply no basis whatever for any assertion that the domestic airlines have an urgent need for the additional revenues the present 4 percent fare increase will bring them. Certainly the inflationary and other adverse effects of the

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fare increase should not on this account be ignored.

A FURTHER FARE INCREASE IS NOT NEEDED TO OFFSET FUEL OR OTHER COST INCREASES

The airlines' claim, accepted by the Board, is that a further domestic fare increase at this time is needed "to offset current cost increases stemming from the general inflationary economic climate as well as continued high fuel costs." The rapid rise in domestic airline profits, however, in the face of these alleged inflationary cost increases, demonstrates that no such need exists.

By April of this year, when the "temporary" six percent fuel-related fare increase took effect, domestic fuel costs per gallon had already risen to 177 percent of the average level during the year ended June 30, 1973.[25] Between April and September, fuel costs rose another 14.4 percent, to 203 percent of the average FY 1973 level. The last few months in particular have seen fuel prices leveling off; between June and September 1974, they increased at an average rate of only 1.96 percent per month, as against an average monthly increase of 5.55 percent compounded from FY 1973 to June 1974, or 5.89 percent to April 1974.

Moreover, the really significant figure for present purposes is not fuel cost per gallon but fuel cost per revenue passenger-mile (RPM). For while fuel prices were rising sharply, so was fuel productivity measured in RPM's generated per gallon of fuel consumed. The carriers have achieved this gain in productivity partly by grounding or reducing the utilization of their least fuel-efficient aircraft,[26] partly by operational changes which have reduced fuel consumption per plane-mile flown with the same aircraft, but mostly by reducing the plane-miles flown to generate a given number of revenue passenger-miles—which is to say, by carrying the same number of passengers on fewer flights. Schedule reductions were forced on the carriers by the acute scarcity of petroleum products brought about by the Arab oil boycott of October 1973. Moreover, beginning shortly thereafter, the Federal Government's Mandatory Fuel Allocation Program[27] limited the carriers to a specified fraction of their 1972 fuel usage—when, indeed, they could obtain this quantity of fuel from their suppliers, which was not always the case.

The greatly increased price of fuel also gave the carriers the strongest possible economic incentive to conserve on its use in every way feasible. Responding to these pressures and incentives, they cut schedules, raised load factors, adjusted operating procedures, grounded and reduced utilization of fuel-inefficient aircraft, and by all of these means very markedly increased the number of revenue passenger-miles produced per gallon of fuel burned. This increase in fuel productivity has offset much of the increased cost of fuel per gallon since fiscal 1973 (the base period usually cited), and we believe has entirely offset the fuel cost increase not allowed for in the 6 percent fuel-related fare increase of last April, which is now made permanent. Again, our evidence for this conclusion is the rapidly increasing profits of the domestic carriers since the 6 percent increase went into effect.

As for general inflationary trends in the economy, no sane person doubts the existence of these trends, but the real question is whether and to what extent they have been offset by increased productivity in this specific industry. The same factors which have offset fuel cost increases—particularly schedule cutbacks and the consequent general increase in load factors—have also offset other types of cost increases. Thus, for instance, increased wage rates have undoubtedly raised the cost of producing an available seat-mile (ASM), despite the continued gain in labor productivity measured in ASM's per man-hour. But higher load factors have meant a considerable gain in revenue passenger-miles generated per ASM flown, thereby offsetting the increased cost of producing an ASM. Again, the rapidly increasing operating profits of the domestic carriers during the current year is the best evidence that productivity gains stemming from schedule cutbacks and other causes, together with the fare increases already granted prior to this time, have more than offset such inflationary cost increases as the airlines have experienced.

It is to be understood that we have heretofore been discussing the airlines' profits *before* application of the *DPFI* standards. The application of the *DPFI* load-factor standard, in particular, has the effect of discounting in advance all of the increase in the carriers' actual load factors up to 55 percent. That does not change the fact that the carriers' actual cash operating results have been greatly improved as a result of rising load factors. But when we come to consider the carriers' operating results as adjusted in accordance with *DPFI* standards, the argument shifts ground. In the next sections of this statement we will show that *DPFI* standards have not in fact been fully applied; that their full application would show the fare increase to be unjustified in *DPFI* terms; and that in any case the data and projections to which the Board is purporting to apply *DPFI* standards is distorted by the effects on non-recurring factors.

FULL APPLICATION OF THE STANDARDS OF THE DOMESTIC PASSENGER-FARE INVESTIGATION SHOWS THAT THE FARE INCREASE IS UNJUSTIFIED

The press release announcing the Board's decision to allow the additional 4 percent fare increase to take effect states that:

"A Board majority concluded that even with the 4 percent increase, domestic trunkline earnings, after application of the ratemaking standards of the *Domestic Passenger-Fare Investigation*, would not exceed the 12 percent rate of return standard."

The calculations which purport to demonstrate this conclusion are set forth in Appendix A to this statement, are in most respects identical to those contained in the Board's September 13, 1974, press release.[28]

However, the plain fact of the matter is that the Board has *not* applied all of the ratemaking standards of the *DPFI*. Specifically, it has (1) failed to implement fully the discount-fare adjustment required by the Board's decision in Phase 5 of the *DPFI*, and (2) made no provision for updated implementation of the determination in Phase 7 of the *DPFI* to treat belly-cargo revenues as an offset against the cost of operating combination aircraft which carry both passengers and cargo. Of these, the former is much the more important, since full implementation of the discount-fare adjustment would by itself bring the domestic trunklines' indicated rate of return to well over 12 percent *without* the additional 4 percent fare increase, thus showing the fare increase to be unwarranted under *DPFI* standards.

In its *DPFI* Phase 5 decision,[29] the Board passed on the lawfulness of only the four specific discount fares—youth standby, youth reservation, family, and Discover America—which were litigated in the proceeding. Nevertheless it drew a number of broad conclusions concerning future discount-fare policy from its study of these four fares. In particular, the Board announced that in the future it intended to avert any burdening effect of any and all types of discount fares on normal coach fares[30] by an adjustment which would assume, for purposes of calculating normal fares, that the discount fares were not part of the fare structure.

This, it was indicated, would involve determining what proportion of the carriers' reported discount passengers were *generated* (*i.e.*, induced to travel by air) by the discount fares, and what proportion would have traveled by air anyway and were merely *diverted* by the discount fares from higher-fare air travel. Once such a generation/diversion ratio was determined, for purposes of the adjustment generated passengers would be assumed to be lost to the airlines, and both the generated revenues and the assumed non-capacity costs of handling such passengers would be subtracted from their reported operating results. Diverted passengers, on the other hand, would be assumed to travel once more at full fares, and the appropriate additions would be made to reported revenues to reflect this.[31]

The Board did not undertake to implement the discount-fare adjustment in Phase 7 of the *DPFI* itself.[32] In September 1973, however, when the carriers sought their first post-Phase 7 fare increase, the Board announced that it would implement the discount-fare adjustment with respect to the four litigated discount fares (family, youth, and Discover America), as to which generation/diversion ratios had been specifically determined in the Phase 5 decision.[33] Implementation as to the numerous remaining types of discount fares was postponed, both because the Board believed a phase-in process was desirable (as with several other *DPFI* standards) and because no data was available as to the generation/diversion ratios associated with other types of discount fares. A rulemaking proceeding to explore *inter alia* the means of further implementing the Phase 5 discount-fare adjustment was foreseen.

It now appears, however, that there is no need for a long-drawn-out data-gathering process in order to implement the discount-fare adjustment with respect to the remaining discount fares. Briefly, it turns out that the exact generation/diversion ratio assumed in making the adjustment has very little influence on the rate of return which emerges from the calculation after the adjustment is made. In other words, regardless of whether any particular discount fare, or all discount fares as a class, are assumed to be highly generative (and thus profitable) or highly diversionary (and thus unprofitable), when the effects of the discount fare or fares are removed and the required load-factor adjustment is made to restore the 55 percent standard load factor, very much the same rate of return is indicated. The volume of discount-fare traffic and the average depth of the discounts (both readily available data) turn out to be the truly significant factors in the calculation, and not the generation/diversion ratio, which is always difficult to determine.[34]

Thus immediate full implementation of the discount-fare adjustment is now seen to be entirely feasible, and the only real remaining question is whether such implementation at this time is desirable as a matter of policy. To us the case for immediate full implementation seems unanswerable. First, implementation of the adjustment is anti-inflationary, a consideration we think is entitled to the greatest possible weight, particularly in view of the present prosperity of the domestic airlines.

Second, the Board has been promising at least since mid-1971, in a long series of orders allowing carriers to experiment with discount fares, that the risks of this experimentation would have to be borne by the carriers, and not by the normal-fare-paying public. Failure to implement the adjustment now means that normal fares will continue to be burdened by the effects of these discount fares, which is precisely what the Board promised it would not permit to happen.

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Third, it has been approximately a year since the Board implemented the adjustment with respect to the four litigated discount fares, which at the time represented very close to half of the total discount-fare traffic. No visibly adverse consequences followed this half-way implementation. This strongly suggests that full implementation of the adjustment with respect to the remaining discount fares is appropriate at the present time, now that the one major apparent obstacle in the path of doing so is seen not to be an obstacle after all. On the other hand, since the four litigated discount fares have now themselves been entirely phased out of existence as of June 1, 1974, failure to implement the adjustment as to additional discount fares will mean that it is no longer being implemented as to *any* currently effective discount fares—an intolerable step backward, from our point of view.

Finally, recent monthly reports from the carriers on the volume and composition of their discount-fare traffic suggest an urgent need for further implementation of the adjustment. In brief, several carriers in June, July, and August have reported extremely sharp declines in discount traffic and equally sharp increases in full-fare traffic, to an extent which appears to go considerably beyond what would have been expected following the final phase-out of the four litigated discount fares on June 1. For instance, Eastern reported that its ratio of discount to total traffic declined in August to 13.0 percent, down from 46.9 percent a year earlier. This involved a 69 percent year-to-year decrease in discount traffic, coupled with an 81 percent increase in full-fare traffic. Almost equally dramatic shifts from discount to full-fare traffic appear in the reports of Delta and United.

To the extent that these shifts simply reflect the final phase-out of the family, youth, and Discover America fares, of course, they are compensated for in the rate-of-return calculation by the portion of the discount-fare adjustment already implemented. However, there are indications that many of the carriers are also quietly dropping other discount fares which they have found to be unproductive. Moreover, the Board's recent order to show cause,[35] calling on the carriers to place expiration dates on all but a few of their discount fares not already bearing such dates, can be expected to result in a further extensive shakeout of unproductive discount fares.

To the extent that the carriers have been dropping and will hereafter drop discount fares not covered by the discount-fare adjustment already implemented, they have been enjoying and will hereafter enjoy gains in their average fare yield per mile which are not reflected in the Board's rate-of-return calculation. In other words, although the return calculation in Appendix A has been adjusted to annualize the increases in normal fares which the carriers have been granted during the base year (fiscal 1974), it has not been adjusted to reflect their further recent gains in average fare yield stemming from the shift from discount-fare to normal-fare traffic, except to the extent this shift represents only the phase-out of family, youth, and Discover America fares. Absent such an adjustment, the calculation falsely shows the carriers as needing additional revenues which they are already in fact receiving. This alone would be a pressing reason for further implementation of the discount-fare adjustment at this time.

We stated earlier that full implementation of the discount-fare adjustment would lead to the conclusion that no further fare increase was justified at this time. As the calculation in the third column of Appendix A shows, the adjusted rate of return under present fares—including the 6 percent fuel-related increase of last spring, but not including the new 4 percent increase—for a future-year period at assumed cost levels of December 31, 1974, comes out to 8.81 percent. As shown in Appendix B to this statement, implementation of the discount-fare adjustment as to the remaining discount fares, assuming a break-even generation/diversion ratio for these fares as a group, brings the projected trunkline rate of return *without* the new 4 percent fare hike to 13.45 percent. To illustrate again the relatively minor effect on the result of wide changes in the generation/diversion ratio assumed, Appendix B also calculates the industry rate of return assuming first a 25/75 percent and then a 75/25 percent ratio; the results are a 13.94 and a 12.48 percent rate of return, respectively.[36] On the other hand, *with* the 4 percent fare increase, Appendix B p. 5 shows that full implementation of the discount-fare adjustment gives a rate of return of 16.78 percent, or nearly 5 percentage points above the Board's 12 percent standard.

The conclusion is thus inescapable that the carriers can achieve the 12 percent return standard, under application of all other *DPFI* ratemaking standards, without a further 4 percent fare increase at this time, and that such an increase will result in an excessive rate of return. The Board was fully aware of all the considerations discussed herein.[37] We accordingly find it difficult to understand why the Board has failed to go forward with further implementation of the *DPFI* discount-fare adjustment when this has been shown to be both entirely feasible and vitally important.

Belly-Cargo Revenue Offset. In Phase 7 of the *DPFI* the Board decided that, in determining the needed level of passenger fares, the revenues derived from carriage of cargo, express, and mail (hereinafter referred to collectively as "cargo") in the bellies of combination passenger-cargo aircraft, after deduction of the specifically ascertainable costs of handling these traffics, should be treated as an offset against the direct operating costs of these aircraft.[38] In the Phase 7 hearing record the Board had before it comprehensive data on belly-cargo revenues, load factors, yields, and the like which enabled it to carry out accurately the computations required by this "by-product" or "revenue offset" approach to the costing of cargo traffic in passenger aircraft. Our complaint here is that the Board has devised no continuing method of carrying out these computations in the face of changes in belly-cargo yields and load factors.[39] As a result, we believe that the Board's present computations materially understate the cargo revenues which should be offset against aircraft operating costs in determining fares.

During the fiscal 1974 base year, and subsequent thereto, the Board has allowed a whole series of cargo rate increases for virtually all carriers, suspending the increases proposed only where they appeared to be above fully allocated costs as developed by the Bureau of Economics in its exhibits in the *Domestic Air Freight Rate Investigation*, currently pending before an administrative law judge of the Board. Although the Board's return calculations in Appendix A have been adjusted to annualize passenger fare increases taking effect during and since the base period, no mechanism has been developed to similarly annualize these cargo rate increases.

At the same time, belly-cargo load factors have markedly increased. Among the carriers' reactions to last winter's fuel crisis was a major cutback in all-cargo schedules.[40] In many markets, all-cargo schedules were eliminated altogether. The effect was to shift a considerable volume of cargo traffic that had used all-cargo service—the revenues and costs of which are treated entirely separate and apart from those of passenger service—to belly service in passenger aircraft. At the same time, the simultaneous cutback in passenger schedules had the effect of raising belly load factors just as it raised passenger-compartment load factors.[41]

The combined effect of these events has been a sharp increase in belly-cargo revenues per available seat-mile flown in passenger service, both because substantially more tons of cargo are aboard the average flight and because the cargo rate yield per ton-mile has risen substantially. We have not been shown that these increased cargo revenues per ASM, which under the "revenue offset" approach are to be deducted from unit operating costs per ASM, have in fact been properly reflected in the Board's fare-increase calculations.[42]

We are told that the necessary data are not available to permit accurate calculation of belly-cargo revenues per ASM at an annualized, updated level similar to that calculated for passenger-fare yields. To us this is not an acceptable excuse for failure to implement a significant aspect of the DPFI ratemaking standards—particularly where the Board deliberately chose the present standard over an alternative one which would not have involved the same problems.[43] Rather, we consider it the Board's duty to obtain the necessary data with all practicable speed, and in the meantime to suspend the fare increase pending investigation.

PROPER ADJUSTMENT OF THE BOARD'S COST INFLATION FACTOR TO REMOVE THE DISTORTING INFLUENCE OF NONRECURRING EVENTS LAST WINTER WOULD SHOW THAT NO FARE INCREASE IS WARRANTED

The calculations on which the Board relied in approving the 4 percent fare increase, as set forth in its press release of September 13, 1974,[44] and in Appendix A hereto, include a unit-cost inflation factor of 10.91 percent per annum, based on a comparison of reported trunkline operating results for the year ended June 30, 1974, before ratemaking adjustments, with those for the previous fiscal year.[45] This inflation factor is very markedly higher than the factors determined for preceding periods; thus, for calendar 1973 the inflation factor determined was 5.19 percent, while for the 12 months ended March 31, 1974, it was 6.54 percent.[46] In its September 13 press release, the Board expressed the view that the 10.91 percent inflation factor calculated for FY 1974 was probably distorted by the influence on FY 1974 unit costs of such significant nonrecurring factors as last winter's abrupt schedule cutbacks due to acute fuel shortages and its exceptionally rapid increases in fuel prices:

"The Board noted that the fiscal year covered by the [rate-of-return] tabulation includes eight months of operations under the Federal Mandatory Fuel Allocation Program. As a result, it is likely that unit costs were abnormally high because of service cutbacks, coupled with substantial increases in jet fuel prices, since November 1, 1973, and, therefore, are not necessarily representative of future period results. Available ton-mile costs for the trunks' domestic services increased 17.7 percent during the fiscal year ended June 30, 1974, a substantial increase when compared to the 6.9 percent increase during the fiscal year ended June 30, 1973. These unit costs increased 25.4 percent during the quarter ended June 30, 1974 over the same period in 1973. The change during the same quarter in 1973 over 1972 was 5.2 percent. *The Board believes that there were significant one-time nonrecurring costs related to capacity cutbacks during this fiscal year.* The Board believes, therefore, that future cost trends should reflect a more normal rate of inflation." (emphasis added)

When it came time to pass judgment on the proposed 4 percent fare increase, however, the Board had nothing to say about the distortion of the reported FY 1974 unit costs by nonrecurring factors, and no adjustments

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were made in the rate-of-return calculations to compensate for such factors and eliminate the distortion they cause. We can see no justification for this failure by the Board to follow through on its earlier statement. As for the carriers' contentions that there were no such nonrecurring factors in the FY 1974 unit costs, we find these arguments wholly unconvincing. On the contrary, it is quite evident that there *were* such factors, and precisely in the areas cited in the Board's September press release—the areas of schedule cutbacks and fuel price increases.

It should be emphasized that the problem of temporary, nonrecurring factors is not that they result in misrepresenting the actual unit costs for the base year—they do not—but that they distort future-year projections of unit costs, and do so in double measure. To illustrate, suppose that in the absence of nonrecurring factors, unit costs during the base year would have been the same as during the preceding year. Unit costs as of the midpoint of the following year would accordingly be projected as being the same as those of both the base year and the preceding year. Now suppose that nonrecurring factors had the effect of increasing base-year unit costs by 10 percent. Under the projection method used, if no "normalizing" adjustment is made, unit costs as of the midpoint of the following year will now be projected as being 10 percent above those for the base year, or 21 percent above those for the preceding year. Thus assuming the unit costs for the preceding year to have been "normal" (*i.e.*, relatively undistorted by nonrecurring factors), a 10 percent distortion in base-year unit costs due to nonrecurring factors will result in a 21 percent distortion in projected future-year unit costs, unless a correcting adjustment is applied.

In many areas of operating costs, the distorting effects of last winter's fuel crisis are difficult to measure. There unquestionably were such effects, however, and their very significant impact on the Board's rate-of-return calculation can be shown by examining a few specific cost areas where relatively exact calculations can be made.

Aircraft Utilization. As described earlier in this statement, the airlines reacted to last winter's fuel shortage crisis and the Mandatory Fuel Allocation Program both by grounding altogether some of their least efficient aircraft, from a fuel-productivity point of view, and by reducing their utilization of other such aircraft.[47] Both groundings and diminished utilization of aircraft result in increases in unit costs, since depreciation, insurance, and capital costs are not reduced and must be spread over a smaller number of aircraft hours (and therefore available seat-miles) in service. For reasons which will become clear hereafter when groundings are discussed, it is convenient to treat diminished utilization and groundings separately.

The domestic trunklines' average daily utilization of passenger aircraft dropped 11.0 percent in the first quarter of 1974 as against the same period a year earlier, from 7.70 to 6.85 hours. For the second quarter the decline in utilization was only 8.0 percent, from 7.61 hours in 1973 to 7.00 hours in 1974—a sign, we believe, that the worst part of the fuel-shortage-induced schedule pinch was passing.[48]

Encompassed within this overall decline in trunkline utilization, moreover, and accentuating its effect on unit costs, was an even greater decline in the utilization rates of some of the industry's largest and often most costly aircraft. In the first quarter, utilization of all types of aircraft fell relatively evenly from that of a year earlier, although above-average declines were registered by 4-engine turbojets (16.0 percent), 4-engine turbofans (12.4 percent), and 3-engine wide-bodies (12.7 percent). By the second quarter a more differentiated trend was developing, with utilization of 3-engine turbofans (B–727's) down only 3.7 percent while that of 4-engine turbojets was down by 20.5 percent, 4-engine wide-bodies by 14.9 percent, and 3-engine wide-bodies by 10.9 percent. The latter two categories, in particular, represent the industry's newest and most expensive aircraft, with correspondingly high depreciation, insurance, and capital charges.

For fiscal 1974 as a whole, average domestic trunk utilization was down 4.4 percent from a year earlier, from 7.56 to 7.23 hours. We consider it a reasonable and indeed almost unavoidable assumption that this decline represented a transient effect of last winter's sharp schedule cutbacks. In the long run, the carriers will find it much more economical to eliminate excess capacity by retiring obsolete or otherwise unneeded aircraft[49] than by under-utilizing aircraft kept in service.

When FY 1974 unit-cost figures are "normalized" by assuming continuation of the FY 1973 aircraft utilization level of 7.56 hours, the adjusted rate-of-return figure for FY 1974 is increased by 0.5 percent. In other words, lowered aircraft utilization reduced the domestic trunks' FY 1974 rate of return by 0.5 percent *for that one factor alone.* And, because of the previously described doubling-up effect of the straight-line projection method used,[50] failure to adjust for this distorting factor in the FY 1974 data causes an increase in the level of "current" unit costs forecast to prevail as of December 31, 1974, which is equivalent to a 1.0 percent reduction in the trunks' forecast future-year rate of return.

In no way can this be shrugged off or treated as an insignificant change. This one adjustment, covering aircraft utilization alone, eliminates approximately one-quarter of the carriers' asserted shortfall in their future-year rate of return. Since aircraft utilization is not the only or even the predominant source of transient-factor distortion in the FY 1974 unit costs, it is clear that the Board's failure to make normalizing adjustments in these unit costs has seriously distorted the entire fare-setting process.

Aircraft grounds. In addition to reducing aircraft utilization, the carriers in the fuel pinch grounded some aircraft altogether. Both the first and second quarters of 1974 saw fewer aircraft assigned to service than the same quarters of the previous year, with continued deliveries of 3-engine turbofans and 3-engine wide-bodies being more than offset by retirements and/or groundings of aircraft of all other significant categories.[51] Some of the latter, of course, represented planned retirements of obsolete aircraft, and some represented accelerated retirements of fuel-inefficient aircraft—notably the older, non-fanned 4-engine turbojets—which would have been retired anyway within the next two or three years. But some groundings—conspicuously those of 4-engine wide-bodies (B–747's), about ten of which appear to have been grounded in early 1974 out of a 1973 complement of 57 or so—were of relatively new and extremely costly aircraft.

The Board's accounting rule has long been that when an aircraft is taken out of service with the intent to sell, scrap, or otherwise dispose of it, it must be removed from the "operating property and equipment" account and thus from the ratemaking base. When an aircraft is taken out of service without such specific intent being manifest, it may be kept in "operating property" for 90 days; then it must either be returned to service or transferred on the books to "non-operating property" and removed from the rate base.

During last winter's fuel crisis, however, the Board decided to let carriers keep on the books for a full year as "operating property" aircraft which the carriers represented were temporarily grounded as a result of the fuel shortage.[52] The carriers were requested to annotate their financial reports to show what part of the depreciation charges included in their operating expense figures was related to such grounded aircraft. Only three carriers,[53] however, have done so for the first and second quarters of 1974.

The reports of these three carriers indicate that about 3 percent of their reported aircraft depreciation charges for this period were related to aircraft temporarily grounded by the fuel shortage. There were substantial groundings by other carriers also; Continental, for instance, grounded its entire fleet of three B–747's, representing a capital investment of some $62 million. Nevertheless, for present purposes, 3 percent may perhaps be taken as a representative figure for the domestic trunks as a whole.

Groundings affect unit costs in the same way as diminished utilization of aircraft, because until the grounded aircraft are transferred on the carriers' books to "non-operating property"—and under the Board's accounting decision of last winter aircraft grounded because of the fuel shortage were not so transferred during fiscal 1974—the depreciation, insurance, and capital charges they generate continue to be included in operating expense and have to be spread over the smaller number of available seat-miles generated by the aircraft remaining in service.[54]

We may assume, therefore, that groundings caused approximately a 3 percent bulge in these categories of unit costs during the first half of calendar 1974, as well as a corresponding bulge in the investment rate base. Assuming further that none of these groundings commenced before January 1, 1974,[55] the effect on these unit costs for the full year ending June 30, 1974, would be approximately 1½ percent; and because of the doubling phenomenon previously discussed,[56] the distorting effect of these components of the projected "current" (December 31, 1974) unit costs will be approximately 3 percent. This is equivalent to about a ⅛ of 1 percent difference in the calculated rate of return upon which the fare-increase justification is premised, over and above the 1 percent difference related to decreased aircraft utilization. Cumulatively, adjustments to the base-year data to eliminate both of these transient distorting effects on unit costs would eliminate about one-third of the carriers' asserted return shortfall.

Fuel costs. The increase in fuel costs since late 1973 cannot, of course, be described as a transitory phenomenon. But the *rate* of increase in fuel costs was considerably greater during fiscal 1974 than it has been in more recent months, or than it can reasonably be expected to be in the period immediately ahead. Thus, averaging the monthly fuel prices during fiscal 1974 shown in Appendix C gives a figure which is 141.92 percent of the average price during fiscal 1973, implying an average monthly rate of increase of 2.91 percent compounded,[57] whereas the monthly rate of increase between June and September 1974 was only 1.96 percent compounded. Modifying the Board's unit-cost inflation factor to reflect the latter rate of increase in fuel costs as more typical of the future period would add about another 1/10 of 1 percent point to the industry's projected future-year rate of return.

Other types of costs. The foregoing are not the only cost areas in which last winter's fuel crisis and attendant schedule cutbacks created a nonrecurring "bulge" in unit costs. Many other types of costs could not be eliminated simultaneously with, or in direct proportion to, the elimination of flight schedules.[58] A notable such area is that of wage costs. Quite apart from the intricate problems of flight-crew planning and scheduling,

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union contracts generally preclude the furloughing or discharge of flight crew members or other airline workers as rapidly as the very abrupt schedule cutbacks which had to be made during last winter's fuel crisis. Often there are furlough and/or discharge payments which must be made. Moreover, furlough and discharge is done almost exclusively on the basis of seniority in each job category, with the result that the most junior (and therefore lowest-paid) employees are the first ones let go. This has the effect of boosting the average hourly wage rates of the employees who are retained—an effect which is eliminated only over the course of time, as senior employees retire, operations are gradually resumed, and low-seniority workers are recalled or new workers hired.

In the area of ground and other indirect costs, likewise, it takes time to adjust to a reduced level of flight operations. Reducing the number of flights a day in and out of a station generally increases the unit costs per flight of maintaining that station, and only in exceptional cases did the Board during the fuel crisis allow carriers to drop all of their flights serving a community and close down the station entirely. Even in those few cases, leasehold obligations doubtless often meant continued expense. Similarly, advance commitments in such areas as advertising meant that these costs could not immediately be scaled down in proportion to reduced flight operations. General administrative costs are yet another example of those which are difficult to curtail immediately in direct proportion to schedule cutbacks.

All of the foregoing areas of cost inflexibility result in increased operating costs per ASM whenever (as last winter) ASM's are abruptly reduced and costs cannot be reduced immediately or in direct proportion. For the most part these increased unit costs are transient or nonrecurring, in the sense that in time the carriers can adjust to a reduced level of flight operations, and can bring the costs involved into line with that level. Even where a completely compensatory downward adjustment in costs cannot be made, there is still a nonrecurring element in the unit costs involved when a partial adjustment is possible, but only after some delay.

Apart from certain specific cost areas such as aircraft utilization, groundings, and fuel costs, it is not easy to measure in precise quantitative terms the nonrecurring "bulge" which last winter's extraordinary events introduced into fiscal 1974 unit costs, although there unquestionably was such a bulge and it was significant in size. The calculations described above with respect to aircraft utilization and groundings are sufficient evidence of that. It is equally plain that little if any of this unit-cost bulge will still be felt during the first full year of the new fare increase. In fact, the rapid increase in domestic airline profits in recent months is the best possible evidence that the unit-cost bulge has been substantially overcome. Certainly there is no basis whatever for assuming—as the straightline projection method described earlier does—that this unit-cost bulge will be felt *twice* as strongly during fiscal 1975 as it was during fiscal 1974.

We also believe that, while absolute precision may well be impossible, a reasonable estimate of this nonrecurring bulge in unit costs can be made.[19] We think the Board has a plain duty to use its best efforts and apply its best judgment in making such an estimate. It will not do for the Board simply to shrug its shoulders or wring its hands over the difficulties involved in estimating the size of the unit-cost bulge. As in the case of the belly-cargo revenue offset (*supra*, p. 29), if more data must be gathered or more analyses must be made, then these things should be done on an expedited basis—and in the meantime the fare increase should be suspended and investigated. Certainly there is no justification at all for the Board to let a highly inflationary fare increase go into effect simply because it is difficult to put a precise figure on the adjustments needed to eliminate the distorting effects of transitory factors on fiscal 1974 unit costs.

SUMMARY

We have undertaken to show that, in approving a further 4 percent domestic fare increase for the airlines at this time, the Board has (1) failed to consider the inflationary effects of the fare increase at a critical time in the fight on inflation, (2) failed to consider the adverse effects of the increase on the movement of traffic, (3) failed to consider the present prosperous state of the domestic carriers, (4) failed to consider the evidence that they do not need a further fare increase to offset fuel or other cost increases, (5) failed to apply all of the ratemaking standards developed in the *Domestic Passenger-Fare Investigation*, and (6) failed to adjust the unit-cost inflation factor used in justifying the fare increase to eliminate the distorting effects of last winter's fuel crisis. When proper account is taken of all these matters, any fare increase at this time is clearly shown to be unwarranted. We would accordingly suspend and investigate the tariffs.

FOOTNOTES

[1] See *infra*, p. 9.

[2] *Domestic Passenger-Fare Investigation, Phase 5—Discount Fares*, Orders 72–12–18, December 5, 1972, and 73–5–2, May 1, 1973.

[3] The fares held unlawful in Order 72–12–18 were found to have caused a dilution in normal fare yields in 1971 of approximately 5.5 percent. This dilution had entered into the calculations which led the Board in *DPFI* Phase 7 to conclude that the carriers needed a general 12 percent fare increase. Eliminating this dilution in three equal stages was thus (as nearly as could be determined) equivalent to three general fare increases of approximately 1.8 percent each. (See the dissent of Member Minetti to Order 73–5–2, at pp. 2–3).

[4] $1.05 \times 1.018 \times 1.06 \times 1.018 = 1.1534$, $\times 1.04 = 1.1996$.

[5] Orders 71–4–59/60, April 9, 1972, and 72–8–50, August 12, 1972.

[6] $1.1534 \times 1.018 \times 1.119 = 1.3139$, $\times 1.04 = 1.3664$.

[7] The other notable feature of the current economic climate is an incipient recession. It is obvious that granting the airlines a further fare increase will do nothing whatever to combat recession; rather, we are concerned that in conditions of recession a further fare increase is likely to have a particularly unfavorable impact on the movement of traffic, and may thus do the airline industry a long-term injury that more than offsets the temporary and perhaps illusory gain it will derive from this ill-timed and ill-considered fare increase. (See discussion *infra*, pp. 5–8.)

[8] Order 71–4–59/60, April 9, 1971. The meaning of this coefficient is that, for each 1 percent increase in fares, demand (*i.e.*, traffic) drops 0.7 percent, so that (approximately) airline revenues increase only 0.3 percent. If, as there is some reason to believe, elasticity actually has an absolute value greater than —1.0 (*i.e.*, if traffic drops more than 1 percent for each 1 percent increase in fares), a fare increase will actually result in a loss of net revenues, although of course expenses will also decline. (See partial dissent of Members Minetti and Murphy to Order 71–4–59/60, *supra*, at pp. 17–20; Order 72–8–50 (dissent) at pp. 9–12.)

[9] This is in spite of the fact that the Board's new Consumer Advocate very strongly argued this point in his submission to the Board. We take the liberty of quoting from his concluding remarks on this issue:

"It appears to OCA [Office of the Consumer Advocate] that air fares have now attained a level where fewer and fewer people will be able to divert discretionary funds into air transport costs and will revert to other forms of common carriage. . . . The industry as a whole may be attempting to use the current 4 percent rise to overcome obstacles of immediate concern while simultaneously discouraging the growth it so desperately requires to remain a viable force in the economy."

[10] Order 71–4–59/60, *supra*, concurrence and dissent, at pp. 19–20, footnote omitted).

[11] The domestic trunk airlines in fiscal 1974 earned some $7.606 in passenger revenues on their 48-State operations, after adjustments are made to eliminate certain (but not all) discount fares and to annualize fare increases which took effect during the year. (See Press Release CAB 74–197, September 13, 1974.) A straight 4 percent increase in these revenues would amount to $304 million (slightly more accurate than the $310 million figure cited in our preliminary statement). Because of the –0.7 percent price elasticity factor, however (see *supra*, note 8), the fare increase can be expected to cause a decline in traffic of approximately 2.8 percent, and the airlines will thus achieve a net increase in revenues of only 30 percent of the gross amount of the fare increase, or about $90 million. On the other hand, this loss of traffic will allow the carriers to reduce both operating expenses and investment (and the load-factor adjustment presumes that they will do so), so that the resulting gains in operating profits and return on investment will be much greater than the net increase in revenues. Here, for example, a $90 million net increase in passenger revenues stemming from the fare increase is expected to produce a $275 million increase in operating profits, and a $145 million increase in after-tax return on investment, for a gain of 3.18 percentage points in the regulatory rate of return. (See Appendix A to this statement.) Thus it is in many ways more accurate and revealing to describe this as a "$304 million fare increase" or a "$275 million operating profit increase" than as a "$90 million net passenger revenue increase." All of these figures, it should be noted, ignore the additional passenger revenues and profits which the fare increase will bring to the local service carriers.

[12] Most current Board statistical tabulations employ the category "domestic trunks" as including Pan American, in recognition of the latter's Mainland-Hawaii and Mainland-Alaska operations. Since the ratemaking area here involved is limited to the continental 48 States, and since the instant fare increase does not affect any of Pan American's routes, the data cited in this statement exclude Pan American wherever feasible, and except where specifically noted to the contrary. Because most carrier financial data are now reported on a 50-State basis, and in some cases only on a system basis, we will cite some data on each of these bases, making clear which is which.

[13] Press Release CAB 74–197, September 13, 1974; see also Appendix A to this statement.

[14] *Handbook of Airline Statistics, 1973 Ed.* (hereinafter cited as *"Handbook"*), p. 218.

[15] Press Release CAB 74–197, *supra*. The cited return figures are adjusted for regulatory depreciation and regulatory investment in accordance with the standards of the *Domestic Passenger-Fare Investigation*, but *not* for the *DPFI* load-factor standard or the *DPFI* discount-fare adjustment (see *infra*, pp. 19–26).

[16] 1964—9.61 percent; 1965—11.57 percent; 1966—10.18 percent. *Handbook*, p. 411.

[17] *Handbook*, p. 76.

[18] Press Release CAB 74–197, *supra*. The figure of 11.08 percent shown in Appendix A hereto results from further adjusting the FY 1974 data to apply 1975 seating-configuration standards, as is appropriate in appraising a fare increase to be applicable in 1975.

[19] See discussion *infra*, pp. 19–26.

[20] *Air Carrier Financial Statistics* (hereinafter cited as *"Financial Statistics"*), June 1974 ed., p. 4; *Handbook*, p. 221.

[21] *Financial Statistics*, June 1974, pp. 3, 4, 22; *Financial Statistics*, March 1974, same pp.; *Handbook*, pp. 218, 221. In our preliminary statement of October 31, we quoted a figure of $445 million for the first six months of 1974. This, however, included a first-half loss of $14.6 million for Pan American, which has now been eliminated in the figure cited in the text, *supra*. (The 1966 figures did not and do not include Pan American.) The comparison is still not exact because the 1966 figures are on a 48-State basis while those for 1974 are on a 50-State basis; however, the relative orders of magnitude of the figures are not affected by this difference.

[22] These figures, based on monthly reports which do not separate domestic from international/territorial results, include Pan American. Since Pan American's cumulative operating loss through August 1974 was $35.5 million, the profit figures for the remaining carriers would be increased by PAA's elimination. We have not undertaken to do this, since the figures are cited only to show the very rapid upward trend of trunk operating profits.

[23] *Aviation Daily*, November 6, 1974, p. 26 (back). This compilation understates the operating revenues of American Airlines by $100 million, although the column total is correct. Figures for National Airlines were not available because of its recently ended strike; however, for the first six months of 1974 this carrier had an operating profit of $39.2 million and a net profit after taxes of $19.1 million. (*Financial Statistics*, March and June 1974.) The carrier has reportedly continued to be profitable through its strike, in large part because of sizable Mutual Aid Pact payments (including over $1 million in October from financially hard-pressed Pan American).

[24] Interest expense, which must be added to net profit after taxes to give return on investment, totaled $286 million in fiscal 1974 for the domestic trunks and locals; for calendar 1974 the figure will undoubtedly substantially exceed $300 million. (*Financial Statistics*, June 1974.)

[25] See Appendix C to this statement, which reproduces data released by the Board in a press release on October 24, 1974 (Press Release CAB 74–231).

[26] See further discussion of this *infra*, pp. 33–39.

[27] Energy Policy Office Reg. 1, October 12, 1973, 38 Fed. Reg. 28660, and subsequent amendments thereto see 10 C.F.R. Part 211, Subpart H.

[28] Press Release CAB 74–197, *supra* note 13. The calculations in the second column of Appendix A make a further adjustment to the base-year data, over and above those made in the press-release calculations, to reflect the Board's *DPFI* Phase 6A seating standards effective January 1, 1975. Also, a fourth column is added which purports to show the adjusted industry rate of return following allowance of the further 4 percent fare increase.

[29] Order 72–12–18, December 5, 1972.

[30] The Board found that discount fares, although sometimes useful on a short-term basis in helping to fill empty seats at times of excess industry capacity, have a long-term tendency to burden normal fares because (a) the carriers tend to schedule and plan aircraft acquisitions on the basis of all traffic, reduced-fare as well as full-fare and (b) when some passengers pay less than their full allocable costs of carriage, the other passengers ultimately must pay more, *unless* the carriage of the discount passengers has the effect of reducing unit costs for all—something which, the Board found, simply does not happen in the airline industry.

[31] For illustrations of how this adjustment is performed, see Appendix B to this statement.

[32] Members Minetti and Murphy dissented from the Board's conclusion that the family and youth fares were unduly discriminatory and hence unlawful, but not from the Board's policy conclusions concerning the future treatment of discount fares in setting normal fares. On reconsideration, in Order 73–5–2, May 1, 1973, Member Minetti dissented from the Board's decision not to remand the proceeding for a determination of how much normal fares should be reduced to compensate for the elimination of the discount fares which the Board had determined to be unlawful and ordered phased.

[33] Order 73–9–108, September 28, 1973, at p. 4.

[34] Since any generation/diversion ratio can thus be assumed without danger of substantial injustice, the most logical ratio appears to be a break-even ratio—that is, a ratio of generation to diversion under which the revenue gained from generated traffic, less the out-of-pocket cost of handling such traffic, is just equal to the revenue lost from the down-faring of diverted traffic. This break-even ratio is directly calculable from the average effective percentage discount. The generation/diversion ratios determined for the family, youth, and Discover America fares in the Board's *DPFI* Phase 5 decision were in fact all quite close to their break-even ratios, *i.e.*, these fares were all found to be either slightly profitable or slightly unprofitable under the Board's so-called "profit-impact" test. In the present case, however, as will be seen, it makes no ultimate difference *what* generation/diversion ratio is assumed.

[35] Order 74–10–49, October 9, 1974.

[36] For the remaining discount fares as a group, the break-even generation/diversion ratio proves to be 43.65 percent generation, 56.35 percent diversion. A 25/75 percent ratio would imply that the remaining discount fares as a group are exceedingly unprofitable, so much so that the carriers could increase their operating profits by some $267 million and their rate of return by nearly 2½ percentage points simply by abolishing these discount fares. At the other extreme, a 75/25 percent ratio would be extremely high for the remaining discount fares as a group, in view of the broad availability of many of these fares. (Such a ratio would also imply that these fares are making a $382 million profit contribution on a short-term basis.) We are not aware of any instance where the Board has found a broadly available discount fare to have a generation factor as high as 75 percent. It should be noted that even assumption of an impossibly high generation/diversion ratio of 90/10 percent would give a rate of return of over 12 percent without the fare increase.

[37] Specifically, the Board had before it at its meetings on this issue a staff-done calculation showing that full implementation of the discount-fare adjustment would bring the trunkline rate of return for a projected future year, *without* the new 4 percent fare increase, to 13.18 percent. This calculation embodied several additional refinements which we have chosen not to incorporate in Appendix B; thus, it took into account the somewhat greater average length of haul of discount-fare passengers vis-a-vis regular-fare passengers, and when eliminating the costs of generated passengers it based these on coach costs rather than overall average passenger costs. In the interests of greater understandability, we have chosen to depart as little as possible from the manner in which the discount-fare adjustment has been made heretofore. Our only departures were the use of the break-even generation/diversion ratio and the demonstration that the ratio assumed makes little difference in the outcome—both being matters as to which the Board has been fully briefed over the past two months. Since the principal numerical result shown in Appendix B (13.45 percent) differs by only a fraction of a percentage point from that which the Board had before it (13.18 percent), and since both sets of calculations point to the identical conclusion—that the fare increase is unwarranted—we do not think that the Board can legitimately claim "surprise" as to the Appendix B calculations.

[38] Order 71–4–59/60, April 1, 1971. Members Minetti and Murphy dissented on this issue; they would have preferred a "fully allocated" costing approach which would have obviated the present problem (see *infra*, note 43).

[39] See the partial dissent of Members Minetti and Murphy in Order 72–8–50, August 12, 1972, wherein they pointed out this deficiency in implementing the Board's Phase 7 decision.

[40] As Appendix C indicates, this all-cargo cutback was considerably deeper than the cutback in passenger schedules.

[41] Of course the *DPFI* load-factor adjustment has an impact on cargo as well as passenger load factors, but because of the additional elements cited above (notably the shift of cargo from all-cargo to combination flights), we do not believe the improvement in belly-cargo load factors has been adequately accounted for.

[42] It is suggested that, since belly-cargo revenues have in the past amounted to only about 7 percent of total operating expenses in passenger service, recent increases in belly-cargo revenues cannot possibly have a significant effect on the present passenger-fare calculations. It is also suggested that unit operating costs have increased as fast or faster than cargo rate yields. Both of these suggestions, it seems to us, ignore the multiplier effects of simultaneous cargo rate increases, cutbacks in passenger schedules, and enforced shifts of cargo from all-cargo to passenger flights. At any rate, we have not been shown any calculation which convincingly demonstrates that the net effect of these changes on the passenger-fare calculations is negligible.

[43] Under the alternative "fully allocated costs" standard, fixed percentages would have been determined for allocating the operating costs of combination aircraft among passengers and their baggage, cargo, express, and mail. Accordingly, any disproportionate rise in cargo revenues per plane-mile flown would simply improve the profitability of belly-cargo service, which would be treated as a separate ratemaking entity, and would not affect passenger-fare calculations at all.

[44] Press Release CAB 74–197, *supra* note 13.

[45] The inflation factor is calculated by dividing total reported trunkline operating costs for the base year (here FY 1974) by the total available seat-miles (ASM's) flown during the year, and comparing this with the comparable figure of operating cost per ASM for the preceding year (here FY 1973). It is then assumed that unit operating costs are rising at a constant rate, and hence that the level of unit costs as of the midpoint of the year following the base year (here, as of December 31, 1974, the midpoint of FY 1975) will be as much above the average level of unit costs during the base year, as the latter were above those for the preceding year. In other words, it is assumed here that the level of unit costs as of December 31, 1974, will be 110.91 percent of the average unit costs for FY 1974, just as the latter were 110.91 percent of the average unit costs for FY 1973.

Of course, basing a fare increase to take effect on November 1 or November 15 on an assumed level of costs which is not expected to be reached until December 31 of the same year involves a small but distinct breach of the Board's long-standing and eminently sound policy of recognizing only cost

increases which have actually occurred at the time of a ratemaking action, and not those which are anticipated to occur in the future, even the near future. At a time of rampant inflation, and when the carriers have no immediately pressing need for the additional revenues, we do not believe that even such minor departures from past sound ratemaking policy are excusable when they contribute to inflation, as this one does. But this particular departure, although regrettable, is not the principal object of our present criticism.

[46] Press Release CAB 74–188, August 23, 1974.

[47] "Utilization" refers to the average number of hours per day that each aircraft in the carriers' fleets, assigned to revenue flight operations, is employed in such operations. Aircraft grounded altogether—that is, aircraft not assigned to flight operations during any given period—are not counted in computing average daily hours of utilization.

[48] Available ton-miles, the broadest measure of capacity offered, declined 9.5 percent for the domestic trunk carriers from first quarter 1973 to first quarter 1974. The year-to-year decline in the second quarter was only 7.3 percent. See Appendix D to this statement for a compilation of aircraft assigned to service, utilization, and available ton-miles of domestic trunk carriers, first and second quarters 1974 vs. 1973.

[49] This long-run process of adjustment can in fact already be seen at work in the "aircraft assigned to service" figures given in Appendix D.

[50] The projection method used, in the absence of a normalizing adjustment, assumes that utilization will continue to decline, so that by December 31, 1974, it is assumed that utilization will be down an additional 4.4 percent from the level of fiscal 1974, *i.e.*, that it will be down to 6.91 hours daily. With the normalizing adjustment, the projection assumes instead that utilization will remain at (or rather return to) the level of 7.56 hours daily. As previously pointed out, the difference in the December 31, 1974, projected figures, with and without the normalizing adjustment, is twice the difference in the fiscal 1974 figures.

[51] See Appendix D.

[52] As of February 1, 1974, some 55 aircraft were so grounded by the domestic trunks. An unknown but substantial number of these have since been returned to service.

[53] American, United, and Western.

[54] We wish to make it clear that we are not criticizing *per se* the Board's action of last winter in permitting the carriers to keep fuel-grounded aircraft on their books as "operating property". The acute fuel shortage was not of the carriers' making, nor was it a circumstance they ought reasonably have been expected to foresee. Were the Board here engaged in determining the reasonableness of fares charged during fiscal 1974, an excellent case could be made for allowing these fuel-grounded aircraft to remain in the investment rate base and their depreciation and related charges to be included in operating costs. What we object to is the Board's failure here to adjust the fiscal 1974 data to eliminate the distorting effects of these extraordinary and non-recurring groundings on the fares to be charged in 1975.

[55] Actually, an unknown number of them commenced in November and December of 1973.

[56] Assuming there were no aircraft grounded during fiscal 1973, and in absence of a normalizing correction to the fiscal 1974 data, the straight-line projection method assumes that the carriers will have twice as many aircraft grounded on December 31, 1974, as they did on the average during fiscal 1974.

[57] As noted earlier (*supra* page 15), the month-to-month rate of increase in fuel prices during fiscal 1974 averaged 5.55 percent per month.

[58] The Board had occasion to note this at the time; see Order 73–11–93, November 20, 1973, at pp. 5–6.

[59] For example, if the unit-cost inflation factor used in the rate-of-return calculations in Appendix A is reduced from 10.91 percent to 7.5 percent, the industry rate of return *before* the 4 percent fare increase becomes 11.04 percent, and *after* the increase becomes 14.26 percent. This is *without* any further implementation of the discount fare adjustment. A "normalized" inflation factor of 7.5 percent does not appear to be an unreasonable assumption in view of the previously calculated inflation factors of 5.19 percent for calendar 1973 and 6.54 percent for the year ended March 31, 1974—the factor for the latter period of course being also affected by the fuel crisis, but not as much as the FY 1975 figure.

APPENDIX A

ANALYSIS OF DOMESTIC TRUNK PERFORMANCE FOR THE YEAR ENDED JUNE 30, 1974, IN ACCORDANCE WITH THE STANDARDS SET FORTH IN PHASE 7 OF THE DOMESTIC PASSENGER-FARE INVESTIGATION

[Dollars in thousands]

	Unadjusted [1] (1)	Adjusted [2] (2)	Projected forward to Dec. 31, 1974, by annualization of fare increases and 10.91 percent cost increase [3] (3)	Adjusted to reflect an additional 4 percent fare increase (4)
RPM's (millions)	106,957	104,955	100,223	97,509
ASM's (millions)	193,780	190,792	182,200	177,287
Load factor (percent)	55.2	55.0	55.0	55.0
Yield (cents)	6.9932	7.1065	7.5886	7.8921
Passenger revenue	$7,479,758	$7,458,631	$7,605,510	$7,695,527
Operating revenue	7,671,642	7,650,515	7,797,390	7,887,411
Operating expense	7,037,740	6,673,290	7,150,240	6,964,959
Operating profit	633,902	887,225	647,150	922,452
Interest	200,626	191,142	185,544	182,131
Earnings	$433,276	$696,083	$461,605	$740,322
Tax (at 48 percent)	207,972	334,120	221,570	355,354
Net income	225,972	361,963	240,035	384,968
Return	425,930	553,105	425,579	567,097
Investment	5,239,736	4,991,999	4,832,250	4,738,986
Return on investment (percent)	8.13	11.08	8.81	11.97

[1] Form 41 reports, adjusted to reflect 48-State scheduled passenger operations; and adjusted for regulatory depreciation and regulatory investment.

[2] Adjusted for the removal of Youth, Family, and Discover America discount RPM's, revenues, and costs; and the 55-percent standard load factor with standard seating (1975 standards).

[3] A 5-percent increase was effective Dec. 1, 1973, and a 6-percent increase was effective Apr. 16, 1974. Operating expense per ASM for the year ended June 30, 1974, was 10.91 percent over that for the preceding year.

APPENDIX B

EFFECT OF IMPLEMENTING THE DISCOUNT-FARE ADJUSTMENT ON THE DOMESTIC TRUNKLINE RATE OF RETURN AS PREVIOUSLY ADJUSTED IN ACCORDANCE WITH OTHER DPFI STANDARDS, PRIOR TO THE 4-PERCENT FARE INCREASE EFFECTIVE NOV. 15, 1974

[Dollars in thousands]

	Adjusted fiscal year 1974 results projected to Dec. 31, 1974 [1] (1)	Removal of remaining discounts at various assumed generation/diversion ratios: Break-even [2] (2)	25/75 [3] (3)	75/25 [4] (4)
RPM's (millions)	100,223	92,089	95,564	86,245
ASM's (millions)	182,200	167,435	173,752	156,809
Load factor (percent)	55	55	55	55
Yield (cents per RPM)	7.5886	8.1194	8.1194	8.1194
Passenger revenue	$7,605,510	$7,477,027	$7,759,200	$7,002,593
Operating revenue	7,797,390	7,669,907	7,951,080	7,194,473
Operating expense	7,150,240	6,656,432	6,866,013	6,309,507
Operating profit	$647,150	$1,013,475	$1,085,067	$884,966
Interest expense	185,544	174,267	179,092	166,151
Net before tax	461,605	839,208	905,975	718,815
Net after tax [5]	240,035	436,388	471,107	373,784
Return element [6]	425,579	610,655	650,199	539,935
Investment	4,832,250	4,538,546	4,664,223	4,327,193
Rate of return (percent)	8.81	13.45	13.94	12.48

[1] See appendix A, column 3. See also p. 6, this appendix.

[2] See p. 2, this appendix. Break-even G/D ratio is 43.65 percent generation.

[3] See p. 3, this appendix. 25 percent generation, 75 percent diversion.

[4] See p. 4, this appendix. 75 percent generation, 25 percent diversion.

[5] Tax at 48 percent.

[6] Net income after tax plus interest expense.

APPENDIX B—Continued

EFFECT OF IMPLEMENTING THE DISCOUNT-FARE ADJUSTMENT ON THE DOMESTIC TRUNKLINE RATE OF RETURN AS PREVIOUSLY ADJUSTED IN ACCORDANCE WITH OTHER DPFI STANDARDS, PRIOR TO THE 4-PERCENT FARE INCREASE EFFECTIVE NOV. 15, 1974

[Dollars in thousands]

	Adjusted fiscal year 1974 results projected to Dec. 31, 1974, before 4 percent fare increase [1]	Removal of discount fares		Load-factor adjustment	
		Change	Adjusted	Change	Adjusted
REMOVAL OF DISCOUNTS AT BREAK-EVEN GENERATION/DIVERSION RATIO (DETAILED CALCULATION)					
RPM's (millions)	100,223	−8,134	92,089		92,089
ASM's (millions)	182,200		182,200	−14,765	167,435
Load factor (percent)	55.0		50.54		55.0
Yield (cents per RPM)	7.5886		8.1194		8.1194
Passenger revenues	$7,605,510	−$128,483	$7,477,027		$7,477,027
Operating revenues	7,797,390		7,669,907		7,669,907
Operating expenses	7,150,240	−128,483	7,021,757	−$365,325	6,656,432
Operating profit	647,150		647,150		1,013,475
Interest expense	185,544		185,544	−11,277	174,267
Net before tax	461,605		461,605		839,208
Net after tax at 48 percent	240,035		240,035		436,388
Return element	425,579		425,579		610,655
Investment	4,832,250		4,832,250	−293,704	4,538,546
Rate of return (percent)	8.81		8.81		13.45
Discount-fare adjustment:					
Total discount RPM's		18,637			
RPM's generated (43.65 percent)		8,135			
RPM's diverted (56.35 percent)		10,502			
Generated revenue lost at 5.2649 cents		−428,276			
Expense reduction at 30 percent		−128,483			
Diverted revenue recovered at 2.8545 cents		+299,793			
Net revenue gained/lost		−128,483			
Load-factor adjustment: [3]					
Reduction in ASM's (percent)				−8.1040	
Reduction in operating expenses at 64.2 percent				−5,2028	
Reduction in interest and investment at 75 percent				−6,0780	
REMOVAL OF DISCOUNTS AT 25/75 PERCENT GENERATION/DIVERSION RATIO (DETAILED CALCULATION)					
RPM's (millions)	100,223	−4,659	95,564		95,564
ASM's (millions)	182,200		182,200	−8,447	173,752
Load factor (percent)	55.0		52.45		55.0
Yield (cents per RPM)	7.5886		8.1194		8.1194
Passenger revenues	$7,605,510	+$153,690	$7,759,200		$7,759,200
Operating revenues	7,797,390		7,951,080		7,951,080
Operating expenses	7,150,240	−73,591	7,076,649	−$210,636	6,866,013
Operating profit	647,150		874,431		1,085,067
Interest expense	185,544		185,544	−6,452	179,092
Net before tax	461,605		688,887		905,975
Net after tax at 48 percent	240,035		358,221		471,107
Return element	425,579		543,765		650,199
Investment	4,832,250		4,832,250	−168,027	4,664,223
Rate of return (percent)	8.81		11.25		13.94
Discount-fare adjustment: [2]					
Total discount RPM's		18,637			
RPM's generated (25 percent)		4,659			
RPM's diverted (75 percent)		13,978			
Generated revenue lost at 5.2649 cents		−245,305			
Expense reduction at 30 percent		−73,591			
Diverted revenue recovered at 2.8545 percent		+398,995			
Net revenue gained/lost		+153,690			
Load-factor adjustment (percent): [3]					
Reduction in ASM's (percent)				−4.6363	
Reduction in operating expense at 64.2 percent				−2.9765	
Reduction in interest and investment at 75 percent				−3.4772	
REMOVAL OF DISCOUNTS AT 75/25 PERCENT GENERATION/DIVERSION RATIO (DETAILED CALCULATION)					
RPM's (millions)	100,223	−13,978	86,245		86,245
ASM's (millions)	182,200		182,200	−25,391	156,809
Load factor (percent)	55.0		47.34		55.0
Yield (cents per RPM)	7.5886		8.1194		8.1194
Passenger revenues	$7,605,510	−$602,917	$7,002,593		$7,002,593
Operating revenues	7,797,390		7,194,473		7,194,473
Operating expenses	7,150,240	−220,774	6,929,466	−$619,959	6,309,507
Operating profit	647,150		265,007		884,966
Interest expense	185,544		185,544	−19,393	166,151
Net before tax	461,605		79,463		718,815
Net after tax at 48 percent	240,035		41,321		373,784
Return element	425,579		226,865		539,935
Investment	4,832,250		4,832,250	−505,057	4,327,193
Rate of return (percent)	8.81		4.69		12.48

See footnotes at end of table.

[Dollars in thousands]

	Adjusted fiscal year 1974 results projected to Dec. 31, 1974, before 4 percent fare increase [1a]	Removal of discount fares		Load-factor adjustment	
		Change	Adjusted	Change	Adjusted
REMOVAL OF DISCOUNTS AT 75/25 PERCENT GENERATION/DIVERSION RATIO (DETAILED CALCULATION)—Continued					
Discount-fare adjustment:					
Total discount RPM's		18,637			
RPM's generated (75 percent)		13,978			
RPM's diverted (25 percent)		4,659			
Generated revenue lost at 5.2649 cents		−735,915			
Expense reduction at 30 percent		−220,774			
Diverted revenue recovered at 2.8545 percent		+132,998			
Net revenue gained/lost		−602,917			
Load-factor adjustment (percent): [2]					
Reduction in ASM's (percent)				−13.9357	
Reduction in operating expense at 64.2 percent				−8.9467	
Reduction in interest and investment at 75 percent				−10.4518	
REMOVAL OF DISCOUNTS AT BREAK-EVEN GENERATION/DIVERSION RATIO (DETAILED CALCULATION)					
RPM's (millions)	97,509	−7,914	89,595		89,595
ASM's (millions)	177,287		177,287	−14,387	162,900
Load factor (percent)	55.0		50.54		55.0
Yield (cents per RPM)	7.8921		8.4442		8.4442
Passenger revenues	$7,695,527	−$130,002	$7,565,525		$7,565,525
Operating revenues	7,887,411		7,757,409		7,757,409
Operating expenses	6,964,959	−130,002	6,834,957	−$356,093	6,478,864
Operating profit	922,452		922,452		1,278,545
Interest expense	182,131		182,131	−11,085	171,046
Net before tax	740,322		740,322		1,107,499
Net after tax at 48 percent	384,968		384,968		575,899
Return element	567,097		567,097		746,945
Investment	4,738,986		4,738,986	−288,429	4,450,557
Rate of return (percent)	11.97		11.97		16.78
Discount-fare adjustment: [3]					
Total discount RPM's		18,132			
RPM's generated (43.65 percent)		7,914			
RPM's diverted (56.35 percent)		10,218			
Generated revenue lost at 5.4755 cents		−433,339			
Expense Reduction at 30 percent		−130,002			
Diverted revenue recovered at 2.9687 cents		+303,337			
Net revenue gained/lost		−130,002			
Load-factor adjustment (percent): [4]					
Reduction in ASM's (percent)				−8.1151	
Reduction in operating expense at 64.2 percent				−5.2099	
Reduction in interest and investment at 75 percent				−6.0863	

[1] Appendix A, col. 3. Form 41 reports, domestic scheduled passenger operations of domestic trunkline carriers (excluding Pan American), year ended June 30, 1974; adjusted to 48-State basis; adjusted for regulatory depreciation and investment; adjusted to remove effects of Family, Youth, and Discover America fares; adjusted to 55-percent standard load factor at 1975 seating standards; adjusted to annualize fare increases during fiscal year 1974 (5 percent increase effective Dec. 1, 1973, 6 percent increase effective Apr. 16, 1974); projected forward to Dec. 31, 1974, by application of 10.91 percent increase in operating expense per ASM (same increase as fiscal year 1974 over fiscal year 1973).

[1a] Appendix A, col. 4. Same as above, further adjusted to reflect an additional 4 percent fare increase effective Nov. 15, 1974. Adjustments here and in note 1, supra, reflect —0.7 price elasticity of demand.

[2] Discount-fare adjustment: For the year ended June 30, 1974, total discount RPM's (excluding RPM's for Family, Youth, and Discover America fares already eliminated, see note 1 above) were 19.517 million. Average full-fare yield was 7.68¢ per RPM, and an average discount-fare yield (again excluding Family, Youth, and DA30 discounts) was 4.98¢ per RPM. Adjusting to annualize fare increases during fiscal year 1974 (supra notes 1 and 1a) gives adjusted total discount RPM's of 18,637 million, full-fare yield of 8.1194¢ per RPM, discount-fare yield of 5.2649¢ per RPM. On p. 5, further adjusting to reflect additional 4 percent fare increase gives total discount RPM's of 18,132, full-fare yield of 8.4442 per RPM, discount-fare yield of 5.4755¢ per RPM. Yield gain of diverted RPM's is difference between full-fare and discount yields. The break-even generation/diversion ratio (B) is computed from the formula: $B=(f-d)\div(f-0.3d)$; where f=full-fare yield, d=discount-fare yield. Out-of-pocket expense of carrying generated traffic is assumed to be 30 percent of generated revenues (see Order 72-12-18, p. 36 and appendices E and F). Net revenue lost and diverted revenue recovered.

[3] Load-factor adjustment: Adjusted ASM's are RPM's divided by 55 percen . Percent reduction in ASM's is calculated. Percent reduction in operating expense is taken as 64.2 percent of this percentage, and percent reduction in interest and investment is taken as 75 percent of this percentage (see Order 71-4-59/60, pp 50-52 and app. 2). In fiscal year 1974, capacity costs were 64.2 percent of total operating costs.

APPENDIX C

DOMESTIC OPERATIONS AIRCRAFT FUEL COST PER GALLON, YEAR ENDED JUNE 30, 1973, AND JULY 1973 THROUGH SEPTEMBER 1974

	Fuel cost per gallon (cents)			Change over prior month (percent)			Change over year ended June 30, 1973 (percent)		
	Domestic trunks	Local service	Total domestic	Domestic trunks	Local service	Total domestic	Domestic trunks	Local service	Total domestic
1973:									
June [1]	11.663	12.616	11.745						
July	12.291	12.885	12.342				5.38	2.13	5.08
August	12.345	12.897	12.393	0.44	0.09	0.41	5.85	2.23	5.52
September	12.931	13.135	12.949	4.75	1.85	4.49	10.87	4.11	10.25
October	13.277	13.560	13.303	2.68	3.24	2.73	13.84	7.48	13.27
November	13.640	13.820	13.659	2.73	1.92	2.68	16.95	9.54	16.30
December	14.279	14.178	14.270	4.68	2.59	4.47	22.43	12.38	21.50

APPENDIX C—Continued

DOMESTIC OPERATIONS AIRCRAFT FUEL COST PER GALLON, YEAR ENDED JUNE 30, 1973, AND JULY 1973 THROUGH SEPTEMBER 1974—Continued

	Fuel cost per gallon (cents)			Change over prior month (percent)			Change over year ended June 30, 1973 (percent)		
	Domestic trunks	Local service	Total domestic	Domestic trunks	Local service	Total domestic	Domestic trunks	Local service	Total domestic
1974:									
January	17.294	16.927	17.261	21.11	19.39	20.96	48.28	34.17	46.96
February	18.719	18.454	18.694	8.24	9.09	8.30	60.50	46.27	59.17
March	19.969	19.573	19.931	6.68	6.06	6.62	71.22	55.14	69.70
April	20.883	20.099	20.808	4.58	2.69	4.40	79.05	59.31	77.16
May	22.034	21.109	21.943	5.51	5.03	5.45	88.92	67.32	86.83
June	22.539	21.754	22.464	2.21	3.06	2.37	93.25	72.43	91.26
July [2]	23.358	21.878	23.214	3.63	.57	3.34	100.27	73.41	97.65
August [2]	23.695	22.182	23.545	1.44	1.39	1.43	103.16	75.82	100.47
September [2]	24.011	22.051	23.811	1.33	.59	1.13	105.87	74.79	102.73
October									
November									
December									

[1] Year ended June 30, 1973.
[2] National on strike effective July 15, 1974.

Source: CAB Form P-5(b) (formerly T-90) with revisions through current period.

AIRCRAFT ASSIGNED TO SERVICE, UTILIZATION, AND AVAILABLE TON-MILES TRUNK CARRIERS, DOMESTIC OPERATIONS BY AIRCRAFT TYPE

1ST QUARTER 1974 VERSUS 1ST QUARTER 1973

	Aircraft assigned to service [1]			Utilization (hours per day)			Available ton-miles (all revenue service in thousands)		
	1st quarter			1st quarter			1st quarter		
	1974	1973	Percent change	1974	1973	Percent change	1974	1973	Percent change
Passenger:									
2-engine fan	274.4	298.5	−8.1	6.24	7.34	−15.0	646,154	824,317	−21.6
3-engine fan	648.5	598.3	8.4	6.94	7.58	−8.4	2,500,220	2,407,841	3.8
4-engine fan	263.3	290.8	−9.5	7.46	8.52	−12.4	1,540,809	1,930,448	−20.2
4-engine jet	46.2	103.9	−55.5	6.20	7.38	−16.0	185,975	467,775	−60.2
4-engine wide-body	47.1	57.9	−18.7	8.28	9.23	−10.3	901,770	1,258,403	−28.3
3-engine wide-body	112.7	69.8	61.5	6.86	7.86	−12.7	1,183,922	800,462	47.9
4-engine turbo-prop	12.8	11.2	14.3	1.25	2.75	−54.5	3,539	6,880	−48.6
All other	3.5	4.5	−22.2	2.87	2.99	−4.0	1,163	1,931	−39.8
Total passenger	1,408.5	1,434.9	−1.8	6.85	7.70	−11.0	6,963,552	7,698,057	−9.5
All cargo:									
3-engine fan	7.4	14.0	−47.1	7.45	8.58	−13.2	43,142	92,596	−53.4
4-engine fan	37.0	40.5	−8.6	6.45	6.25	3.2	399,979	426,777	−6.2
4-engine turbo-prop		3.0			5.99			9,636	
Total all cargo	44.4	57.5	−22.8	6.62	6.80	−2.6	443,121	529,009	−16.2
Total all types	1,452.9	1,492.4	−2.6	6.85	7.70	−11.0	7,406,673	8,227,066	−10.0

[1] Excludes fuel related groundings.

2D QUARTER 1974 VERSUS 2D QUARTER 1973

	Aircraft assigned to service [1]			Utilization (hours per day)			Available ton-miles (all revenue service in thousands)		
	2d quarter			2d quarter			2d quarter		
	1974	1973	Percent change	1974	1973	Percent change	1974	1973	Percent change
Passenger:									
2-engine fan	271.0	295.9	−8.4	6.31	7.10	−11.1	657,291	812,599	−19.1
3-engine fan	669.2	623.4	7.3	7.10	7.37	−3.7	2,693,419	2,500,274	7.7
4-engine fan	260.0	287.8	−9.7	7.76	8.47	−8.4	1,591,413	1,931,403	−17.6
4-engine jet	37.3	99.0	−62.3	5.87	7.38	−20.5	141,477	445,356	−68.2
4-engine wide-body	47.3	57.3	−17.5	8.19	9.62	−14.9	905,482	1,290,752	−29.8
3-engine wide-body	126.3	82.5	53.1	7.08	7.95	−10.9	1,394,764	984,266	41.7
4-engine Turboprop	15.8	11.7	35.0	1.67	2.81	−40.6	5,667	7,085	−20.0
All other	3.5	3.5	0.0	3.01	3.12	−3.5	1,199	1,222	−1.9
Total passenger	1,430.4	1,461.1	−2.1	7.00	7.61	−8.0	7,390,712	7,972,957	−7.3
All cargo:									
3-engine fan	5.5	7.6	−27.6	10.79	15.35	−29.7	47,146	90,314	−47.8
4-engine fan	37.7	39.4	−4.3	6.64	6.71	−1.0	424,482	450,355	−5.7
4-engine turboprop		3.0			6.04			9,850	
Total, all cargo	43.2	50.0	−13.6	7.17	7.97	−10.0	471,628	550,519	−14.3
Total, all types	1,473.6	1,511.1	−2.5	7.01	7.62	−8.0	7,862,340	8,523,476	−7.8

[1] Excludes fuel related groundings.

Mr. CANNON. Mr. President, even more alarming than its recent policies in regard to rates—and I might say the Board has taken every step it can find to make it more expensive to travel including elimination of such popular discount fares as the student fare, the family fare, the excursion and "Discover America" fares—are its policies in regard to charter air transportation. The Board's policies in my opinion are designed to make it as difficult and inconvenient as humanly possible for Americans to take advantage of low-cost charter-type air transportation.

Last year, the Senate Commerce Committee reported favorably on S. 1739, a bill designed to authorize the establishment of one-stop inclusive tour charters in air transportation. The purpose of that bill is to make available to U.S. citizens a form of low-cost vacation air travel which has long been extremely popular in Europe, in Canada, and elsewhere. Although inclusive tour charters—or ITC's, as they are called—are theoretically available in the United States as well, they are now subject to a number of regulatory restrictions which, as a practical matter, make them most unappealing to consumers. S. 1739 was intended to remove those restrictions.

A few weeks ago, the CAB announced—with great fanfare—that it was proposing new regulations to authorize one-stop ITC's. This new proposal was pre-

sented to the public as a great liberalization of existing charter regulations. When I first heard of this proposal, I thought perhaps the Board had finally seen the light, and that S. 1739 was no longer necessary.

Of course, like many of my colleagues, I soon learned better. Instead of liberalizing the charter regulations in order to make this low-cost form of air travel more widely available, the Board's recent proposals seem designed to destroy charter travel altogether. It is true that one aspect of these proposals is to establish a form of one-stop ITC—or OTC as the Board has called it. But the proposed OTC regulations are encumbered with so many restrictions that they are unlikely to generate any significant volume of new charter business. And at the same time that it proposed this new form of charter, the Board proposed to eliminate—totally eliminate in 1975—the only type of charter service which has so far been successful in the United States; namely, the so-called affinity charter, which permits organizations and clubs to arrange charter flights for their members.

At the time of our hearings on S. 1739, Chairman Timm of the Civil Aeronautics Board estimated that approximately 3 million Americans annually utilize affinity charters. According to a recent CAB study, nearly 73 percent of all transatlantic charters were of the affinity type. ITC's, by comparison, accounted for only 6.4 percent. Chairman Timm estimated at our hearings that only about 160,000 travelers used ITC's in 1972.

Once before, in November 1972, the Board proposed the "suspension" of affinity charters. That proposal was made shortly after the Board had adopted its so-called "Travel Group Charter" or TGC regulations, which the Board at that time thought might be an adequate substitute for its affinity regulations. The TGC experiment, however, turned out to be a complete failure. In 1973, approximately 85 percent of all TGC's filed with the Board were ultimately canceled, and fewer than 40,000 passengers actually traveled on TGC's. The reason for this dismal result is not difficult to find. As in the case of ITC's, so too in the case of TGC's, the Board killed what might have been a very useful new form of charter service by smothering it in overly restrictive regulations. The Board eventually recognized that TGC's were "virtually unmarketable," and recently it amended its TGC regulations in several respects. It is clear, however, that these amendments do not go nearly far enough. The Commerce Committee, in its report on S. 1739, suggested a number of amendments to the TGC rules which the Board has so far declined to adopt. Until it does so, I very much fear that TGC's will not be of much appeal to American travelers. Even the Board no longer claims that TGC's, as presently constituted, would be an adequate substitute for affinity charters.

But imagine if you will, Mr. President, what would have happened if the Board had actually suspended its affinity regulations in 1973, as it originally proposed to do. Literally millions of Americans would have been deprived of low-cost charter air transportation. The airline industry would have lost hundreds of millions of dollars in revenues. Some airlines, particularly the U.S. supplemental carriers which depend entirely upon charters, might have gone bankrupt.

But has the CAB learned from this experience? It has not. Once again, it is proposing to end affinity charter service. Despite the fact that its earlier proposal met nearly unanimous opposition from scheduled and supplemental airlines, Government agencies, consumers and travel agents, the Board is now proposing not merely to suspend, but permanently to terminate, such service. And once again, it is relying on a totally untested "substitute" service which, on its face, can never adequately replace affinity charters. Let me briefly explain why this is so.

In the first place, there is a basic difference between an affinity charter and an ITC or an OTC. An affinity charter normally provides air transportation only, while an ITC or OTC passenger must purchase an all-inclusive tour package. While some affinity passengers do purchase hotel and other ground accommodations, at least 60 percent do not. Many affinity charters are organized by ethnic organizations, whose members are visiting their friends and relatives in their homelands, and who therefore do not need hotel accommodations. Others are organized by student organizations, whose members often travel on a shoestring and cannot afford nice hotels and restaurants. For this reason alone, the OTC could never replace the affinity charter.

Moreover, the board's proposed OTC regulations include so many cumbersome restrictions that OTC's could never become a major form of charter travel. I will cite only a few of the principal restrictions. First of all, the Board is proposing to apply to all OTC's operating to or from points outside of North America the same minimum price restriction which now applies to ITC's—and which the Commerce Committee found to be one of the principal reasons for the failure of the ITC concept. This restriction requires that the price of the tour package be no less than 110 percent of the lowest available scheduled-service fare between the points involved. On the basis of the voluminous evidence presented at our hearings on S. 1739, the Commerce Committee found that this "minimum-price rule frequently frustrates the principal purpose of the entire ITC concept, which is to make vacation air travel available to consumers at the low prices made possible by volume purchasing." I will not attempt to detail here the absurd results which are frequently produced by tying the price of a charter tour to the price of a totally different, and necessarily much more expensive, type of service. Suffice it to say that one can readily predict, on the basis of past experience with ITC's, that this restriction in itself will prevent OTC's from becoming a major factor in the transatlantic and other international markets and will needlessly increase the cost of travel vacations to Europe.

For OTC travel within North America, the Board has proposed another type of price restriction: the tour price must be at least $25 per day plus the per-seat price of the air transportation. Many tour operators, because they purchase hotel space and other ground accommodations in bulk, are able to arrange land arrangements at prices well below $25 per day. Thus, this rule will often result in forcing tour prices to artificially high levels.

I find it hard to believe, Mr. President, that in a period of rampant inflation, the Board would propose regulations which would have the effect of forcing tour operators to charge higher prices than they need or wish to charge. One would think that the Board would be looking for ways to reduce the price of vacation air travel to our hard-pressed consumers rather than seeking to raise them unnecessarily. I am sorry to say this is not the case.

Another provision of the Board's proposed regulations would totally prevent the operation of any substantial number of OTC's within the United States. The Board has proposed to impose an incredibly restrictive quota on domestic OTC's, which would apply in any city-pair market in which there is at least one round-trip scheduled flight daily. In any such market, the total number of OTC participants carried by any carrier in any calendar quarter could not exceed one-quarter of 1 percent—0.25 percent—of the number of passengers carried annually on scheduled service. In most domestic markets, this quota would preclude any carrier from performing even a single planeload OTC flight per quarter. And even in the largest markets, it would only permit a handful of OTC flights. In fact, the Board's own in-house consumer advocate has stated that the effect of this quota restriction "would be to eliminate the alternative of low-cost charter operations in interstate air transportation." It goes without saying that, as long as these quota restrictions exist, OTC's could never be an adequate substitute for affinity charters within the United States. Let me digress for a moment and note how this proposal would affect my State which relies on tourism as the base of its economy.

One of the most popular vacation destinations in the United States is my own hometown of Las Vegas. With its glittering entertainment attractions, its enviable weather, and the myriad of recreational activities, Las Vegas may well be the most exciting holiday city in America.

The Board's OTC proposal, coupled with the elimination of affinity charters, would do irreparable harm to the tourist economy of Las Vegas. In the year ending March 31, 1974, the scheduled airlines carried 159,230 passengers between New York City and Las Vegas. For the comparable period the scheduled and the supplemental airlines carried 87,501 passengers from New York to Las Vegas on charter flights, most of them affinity charters.

Now under the CAB proposal, with affinity charter flights completely eliminated and replaced by OTC's, the maximum number of charter passengers that could be carried between New York and Las Vegas would be 10,746. Stated another way, more than 76,000 persons who used charter services between New York and Las Vegas last year would be denied charter flights because of the very limited number of flights which would be permitted under the OTC concept. It does not take much imagination to foresee the dire consequences that this proposal would have on my State's economy.

There are still other major restrictions in the Board's proposal—none of which apply to affinity charters. One is an advance-purchase requirement, which would require all tour participants to purchase their tours, and make full payment, more than 30 days in advance of the tour. After the 30-day deadline, the tour operator would not be permitted to cancel the flight, and no substitutions of passengers would be allowed. Obviously, these restrictions would put a severe damper on the marketability of this type of charter service. Many people simply, particularly in times of economic uncertainty, do not make firm vacation plans more than 30 days in advance. And even those who do may be reluctant to make a binding commitment and full payment at that time, for fear that they might lose their money if unexpected circumstances force a change in their plans.

The proposal also includes burdensome length-of-stay restrictions. Most North American OTC's would have to be at least 7 days in duration. The only exception would be tours which return on Sunday or Monday, for which there would be no length-of-stay requirement. While this exception would appear to allow weekend OTC's, in fact it would not. The "Catch-22" is that charter programs can only be operated economically in a series of "back-to-back" flights, so that in order to have Thursday-through-Monday tours, there must also be Monday-through-Thursday tours. Otherwise, each airplane carrying a charter flight would have to return empty, which would raise the cost of the program to uneconomical levels. Thus, as a practical matter, 3 or 4 day tours to such destinations as Las Vegas, Miami, San Francisco, the ski country or Disney World would be effectively precluded.

For OTC's outside of North America, the Board would impose a 10-day length-of-stay requirement, except that 7-day tours would be permitted across the Atlantic in the off-season—November through March. Thus, 1-week tours abroad, which are becoming increasingly popular, would be generally prohibited.

Mr. President, I could go on and on, but I think I have made my point. It seems obvious that the Board's OTC proposal is totally unsatisfactory, and that even if it were greatly improved it could not serve as an adequate substitute for affinity charter service. I should also point out that any OTC rules which the Board finally adopts will almost surely be challenged in court, and that the uncertainty created by such a court challenge would itself place a damper on the willingness of tour operators to enter this field and the willingness of the public to purchase OTC tours.

Mr. President, there has been increasing uneasiness and concern, in the Congress and in the country, over a number of recent actions of the CAB. In the past few weeks, many of my colleagues in both Houses have expressed strong dissatisfaction with the Board's performance. In recent committee hearings we have heard a number of pointed criticisms of the CAB. Among other things, the Board's recent approval of a highly inflationary general domestic passenger fare increase—despite the record profits now being earned by the domestic airlines—has been questioned by many economists, consumer spokesmen, and two of the Board's own members. I believe the time has come for the Congress itself to set some clearer policy guidelines in the field of air transportation and to impose some restraints upon the Board's regulatory discretion. Never in my memory have we had a Civil Aeronautics Board so callous to the needs of the public.

Recently the Chairman of the CAB, Mr. Robert Timm, has come under severe criticism because of his extremely cozy relationship with executives of the major scheduled airlines. He has admitted to accepting a free vacation to Bermuda paid for by a company under the Board's jurisdiction.

These unfortunate incidents simply add to the mounting criticism and cynicism which surrounds many Federal regulatory agencies—agencies which often appear to be the handmaidens of the industries they are supposed to regulate in the public interest.

Shortly, President Ford will have the duty to name a Chairman of the Civil Aeronautics Board for 1975; I would urge him to name as Chairman an individual who has demonstrated a commitment to serving the public interest and one who can balance more fairly the needs of the air carriers with the needs of the American traveling public.

Certainly, it is essential that Congress promptly intervene in the area of charter policy. For years, the Board adamantly refused to authorize one-stop ITC's, despite clear evidence that its own three-stop ITC experiment was a total failure. Now it has proposed a form of one-stop ITC, but with so many restrictions as to make it virtually useless. And, most importantly, the Board is proposing at the same time the imminent destruction of the only form of charter service which has been successful—the affinity charter—which accounts for the vast bulk of the charter service available to the American consumer.

These events, I believe, make the immediate enactment of S. 1739 imperative. This legislation would require the Board to authorize a viable, meaningful, marketable type of one-stop ITC service. It is abundantly clear that the public needs this kind of service, and that the Board wil not authorize it unless directed to do so by legislation.

In addition, Mr. President, I believe Congress should enact legislation to preserve affinity charters, at least until such time as a truly adequate substitute form of charter service has been developed and tested in the marketplace. We simply cannot stand idly by and let this needed and highly popular form of low-cost transportation be wiped out by the CAB. I will, therefore, shortly propose an amendment to S. 1739 to deal with the affinity charter situation.

These matters cannot wait until the next Congress. We must deal with them now, before adjournment. I am hopeful that in the next week the Senate leadership will call this bill up for a vote. The CAB's rulemaking proceedings are moving forward on an expedited basis, and it is quite possible that final action will be taken in January or early February. Moreover, the uncertainty created by the Board's proposals is already interfering substantially with charter sales and planning. I, therefore, earnestly hope that Congress will act on these matters in this session.

DEBATE CONTINUES ON BEEF GRADING CHANGES

Mr. DOMENICI. Mr. President, the time is drawing near for final comments on the new beef grading proposals recommended by the U.S. Department of Agriculture.

The proposals announced by the USDA to revise the U.S. standards for grades of beef would make it possible for slightly leaner beef to qualify for the top grades and would make the eating quality of beef more nearly uniform within each grade. They would also establish a more restrictive Good grade and they would require that all beef graded for quality also be graded for yield.

The proposed revisions are technical and detailed, however, the major changes have been summarized as follows:

First. Conformation would be eliminated from the factors used in determining quality grades.

Second. All carcasses graded would be identified for both quality grade and yield grade.

Third. For beef from cattle under about 30 months of age, the minimum amount of marbling required in each grade, except Good, would be set at the level now required for the youngest carcasses that qualify as beef instead of increased maturity as at present. For beef from cattle over about 30 months old, increased marbling would still be required with increasing maturity within each grade.

Fourth, For the Good grade, the minimum marbling requirement would be increased for the youngest carcasses. This would narrow the range of quality within the grade by one-third.

The implementation of these proposals could help reduce the general fatness of beef and provide a more desirable product for consumers. The amount of excess trimmable fat could be reduced, costs could be reduced, cattlemen could be better rewarded for producing superior cattle and beef, and the use of grain could be reduced by at least 200 pounds per animal.

As a result, I can support the majority of these proposals and would like to

compliment the USDA for the direction they are taking in this important area. I believe that taken in total, these proposals are a step forward and will benefit the cattleman and the consumer.

However, there is some difference of opinion on these proposals within the beef industry itself and among some consumer groups. I certainly think that these differences of opinion should be aired and discussed before a final decision is reached.

Mr. President, I ask unanimous consent that various articles on the subject and the remarks by John C. Pierce, Director, Livestock Division, Agricultural Marking Service, U.S. Department of Agriculture, at the Cattle Industry Advisory Committee meeting, Kansas City, Mo., October 17–18, 1974, be printed in the RECORD.

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

[From the West Texas Livestock Weekly, Sept. 12, 1974]

DEAN GIVES 10 REASONS AGAINST GRADE-YIELD SALE

AMARILLO.—Texas cattle feeders, who normally sell their cattle on the hoof to packers are upset about "grade-and-yield" selling, the only method being offered lately by some packers.

"Under current conditions, this is not good business and should be avoided," says Glenn Dean, president of the Texas Cattle Feeders Assn.

He lists these reasons why:

1. Competitive bidding among packers is eliminated resulting in a further decline in the market.

2. Poor market psychology is created because grade-and-yield selling may indicate that feeders are dumping cattle.

3. The price paid for cattle is unknown until the designated day of slaughter. At this time, the price paid for the cattle is determined by the "Yellow Sheet." Thus, the feeder has no control over the price he receives.

4. The prices quoted in the "Yellow Sheet" can be manipulated by a few people quoting a higher or lower carcass price than what is actually being traded. The "Yellow Sheet" doesn't consider the volume of beef moved at various prices, and may quote a price when little or no beef is being sold.

5. Packers can determine the length of chilling time for carcasses prior to grading, which affects quality grade. Carcasses that have not been properly chilled normally have lower quality grades—an advantage to the packer.

6. Packers may not "rib" the opposite side of the carcass for grading until after additional chilling, which can result in a higher quality grade.

7. The feeder is dependent on the mood of the USDA grader—someone the feeder has never met, but who works daily with the packer.

8. Many packers desire to pay on chilled carcass weight, based on an arbitrary three percent or four percent shrink, which is considered excessive. Carcass weight should be on a hot carcass basis.

9. Final pay weight is determined on the packer's scales, not the feeder's scales. Other factors, such as removing tails and inconsistent tare weights for hooks and trolleys, can lower the final pay weight.

10. The feeder must accept price discounts for carcasses of "undesirable" weight and low cutability. But premiums are not paid for highly desirable carcasses. The feeder must accept any price discount resulting from bruises, infections or other factors.

[From the Western Livestock Journal, Sept. 16, 1974]

REACTION MIXED AS INDUSTRY STUDIES NEW GRADING PLAN

News that USDA has taken the first step toward revision of meat grading standards was greeted with mixed reactions in the cattle industry, running from a "wait and see" attitude to enthusiastic endorsement.

Only one industry group opposed the proposed revision, The National Livestock Feeders Assn., Omaha.

While admitting that they had not seen a report of the proposed revisions, a spokesman said "it doesn't sound like the program we've advocated. We do not want to see a lowering of the choice grade. We have advocated the addition of a new grade, rather than lowering the present quality standards of choice."

Elsewhere across the country, reactions were generally favorable; with the new concepts on shorter feeding times the basic theme. Many expressed a feeling of relief that something had finally been resolved, after such a long period of debate and controversy.

"I see it as about the only way we could go," said Bill Bennett, Hereford breeder, Connell, Wash. "I favor it because we will still need the bigger type cattle to make more money. The consumer will not know the difference in the product and it will do the industry a lot of good."

"I see no adverse affect at all in this proposed change," said Western Farm Management's Dub Berry, Phoenix, former executive of the American Hereford Assn. "This will lessen the grain demand, allow feeders to move their cattle better—and the consumer will benefit. He will not change his eating habits any because of this; his satisfaction will be the same.

"Today many of the breeds marble earlier," continued Berry. "So they can sell earlier. But it is important to indicate that this isn't a 'breed' thing. There still is about as much variation in animals within a breed—maybe more—than there is between the breeds. But this move will help all concerned."

Cal Santare, Western States Meat Packers Assn., San Francisco, noted, "this is basically what the packers have been advocating. This proposal stems from our research program with Ken Ellis at the University of California, Davis. The California Cattlemen's Assn., California Cattle Feeders Assn., California Beef Council and WSMPA have been working on this for years.

"What we (WSMPA) object to is the tying of the yield grading with mandatory quality grading," he continued. "There are 67% of all cattle produced graded; 32.2% of the cattle are yield and quality graded; and 24% of all cattle are yield graded. So the demand for these services differs. Why tie them all together?

"The average age of cattle killed in California has been 14–18 months, with most about 16 months. I think this will drop the California kill into the 14–16 month range, and probably take at least a month off feeding time," concluded Santare.

"I am real glad to hear that they are finally acting on this," commented feedlot operator Lee Stampe, Leoti, Kan. "It's gonna be great. This will take probably 2–4 weeks off our feeding period, requiring lots less grain.

"This will also enable a lot of the exotic breeds to be sold along with American breeds at younger ages," he continued. "And it is even possible that they will become worth a little more."

Feeder Bill Webster, Greeley, Colo., was glad to see some action taken, and outlined his reasons.

"The cost of feed has just come to dominate the feedlot operator, and anyway that you can cut back on this is good. This will shorten the feeding period, it's a matter of economics."

Consumer resistance to the change has been mentioned, but Webster discounts this. "The quality of the meat produced will not really be any different. People now are upset about the grain going into cattle. The proposed move will cut down on this. The environmental groups should certainly favor this."

"A great deal has happened to our industry," commented ANCA president Gordon Van Vleck about the grading change. "Because of increased grain costs, over-finished cattle have been going to market. The ANCA Beef Grading Committee has looked upon yield grading with great favor. It is the most important tool in the grading standards in its influences on preventing over-finished cattle.

"If yield grading were combined with quality grading, the feeder and producer would be more likely to be rewarded for their endeavors of providing a superior and economical product," Van Vleck continued. "Because of this, ANCA recommended that when a beef carcass is submitted for quality grading it also must be yield graded.

Our recommendations were made in hopes of bringing the industry closer together in its desire to provide the consumer with a continuing supply of high quality, leaner and tender beef," said Van Vleck. "Based on research, there seems to be no difference in eating satisfaction of beef within 'A' maturity of a specific level of marbling as presently set forth for each of the quality grades."

Van Vleck summed it up, "The proposals will not only meet consumer demands but will satisfy the industry's desire to reduce the use of excessive amounts of grain to produce a quality product more economically. We're very happy about this."

[From the Drovers Journal, Sept. 19, 1974]

VIEWS DIFFER ON NEW BEEF GRADING PLAN

(By Steve Marcy)

WASHINGTON.—Taking the flat line approach to restructuring the marbling-maturity ratio in the USDA's proposed revision of beef grading standards drew favorable comment from members of the beef industry.

But including yield-grading as a mandatory supplement to quality grading drew a sharp challenge from one meat packing trade group, the National Independent Meat Packers Association (NIMPA).

Those were the findings in an early sampling of opinion on the USDA's new beef grading proposal here in the nation's capital by the Drovers Journal.

The majority in the industry apparently agree that requiring the same amount of marbling for both young and 30-month-old cattle will cut production costs by shortening the finishing time and reducing the consumption of grain.

"The change in the marbling-maturity relationship is great," said John Dunning of NIMPA. "We're with the producers on that. We probably should have gotten it a couple of years ago."

By now, Dunning hinted, the industry might be enjoying cost savings that the American National Cattlemen's Association sees as possible if the proposals are adopted.

"Some of our initial studies show that per animal, a saving of grain would amount to roughly 9–10 per cent," says Ron Michieli of ANCA. "Most of that will come at the end of the feeding cycle from about 15 days less feeding time."

Beyond production cost savings, the agreement pretty well ends. Dunning says that NIMPA finds the mandatory inclusion of yield grading to be "completely unacceptable."

"The difficulty is that the yield of the animal isn't established until after

slaughter," continues Dunning. "They want us to sell yield grade meat, but they don't want to sell it to us in that way on the rail."

Dunning fears meat packers can't predict accurately the yield grade of a carcass before slaughter. He feels that a high yield grade can indeed be attractive to the retailer, but every time a packer buys an animal, the packer takes a gamble on the product.

"Sure you can tell the difference between a *yield grade* 2 and a yield grade 5 animal," Dunning says. "But how do you distinguish between a 3.8 and a 4.2 when it's still on the hoof?"

Dunning feels that cattle producers still have a large number of fed animals held out from the market place, meaning fat cattle marketings will continue in substantial volume when the mandatory yield grading becomes effective in December.

Under the current standards that require conformation and quality to be judged as grading standards, but not yield, these heavier cattle would receive a good price on quality alone. That will change if mandatory yield grading must also be judged as part of the grading process.

VIEW ON YIELD GRADING

"If we're correct that yield grading won't provide the kind of incentive they (cattle producers) are looking for, then we'll continue to get Yield Grade 4s and 5s coming to slaughter," says Dunning. "There's no incentive on our part to grade cattle at all. So the feeder is faced with taking a big discount—you can't get much for ungraded cattle—and he finds himself hurting again."

One reason Dunning doesn't believe that yield grading will provide an incentive to produce younger, leaner animals is the traditional cattlemen's response to low prices—hold back the animals. He can't see that yield grading will change that attitude.

He also can't see that yield grading is as accurate as is popularly believed. He points out that the ribeye—fat ratio that determines cutability was based on mature animals. The yield grade system, then, may have a built-in discrimination against the underdeveloped ribeyes of the young-animals that everyone wants to see come to market.

"We don't know whether or not it's inaccurate," says Dunning. "But we plan to find out. I noticed that the USDA gave Texas A&M a grant to study its yield grading accuracy, so they must have some questions."

On the other side of the acceptability argument for yield grading, the USDA notes that packers volunteered to have 7 billion of the 12 billion pounds of beef quality graded in 1973 also yield graded. The cost of the USDA's grading system is borne totally by the packers.

Since beef graders are paid by the hour and it consumes more hours for the added task of yield grading, its mandatory status under the proposals also builds in an additional processing cost of all graded animals.

PACKERS PAY FOR IT

"We're in basic agrement with the proposals," says Bruce Butterfield, public relations officer for the American Meat Institute. "But we want yield grading to remain voluntary. The system is paid for by the packers who choose whether to participate, so we believe the question of incurring the extra cost of yield grading should remain in their hands."

Despite some concern that flattening out the marbling-maturity ratio will "lower" quality. Butterfield says lower grade animals won't be sneaking into upper grade categories.

"I don't think it will mean a lot of high 'good' grade animals grading 'choice,'" says Butterfield. "It just means that now the fat will be gone from more of the choice cuts. Younger, lean animals no longer will be penalized."

The potential effect of the new standards on the number of animals marketed in each grade is too early even for ANCA to determine.

"I don't think you'll see that much change," says Michieli. "They (feeders) will adjust their operations so the animals will feed out to a target category.

"The thing to remember is that you'll be producing leaner beef in a shorter feeding time, which means lower production costs; and less fat to trim, which should help some to lower production costs."

[From the Wall Street Journal Oct. 14, 1974]

COMMODITIES: PLAN TO CHANGE BEEF GRADING IS AIMED AT CUTTING PRICES, BUT SOME ARE SKEPTICAL

(By Norman H. Fischer)

CHICAGO.—Those recently proposed changes in federal beef-grading standards could lower your meat bill at the supermarket, but don't count on it.

Shorn of their technical detail, the proposed changes announced last month—the first major ones set forth in nearly a decade—are aimed at reducing the cost of producing beef and providing consumers with leaner, less expensive meat. They would do this, industry and government officials say, by reducing the fat—and, therefore, increasing the proportion of lean meat—required in carcasses that receive the top grades of U.S. Prime and U.S. Choice. (Under the existing standards, it's presumed that a certain amount of fat, or marbling, assures tenderness.)

Traditionally, cattle attains the highest government grades by being fattened on grain in commercial feedlots. The proposed standards would reduce the time these animals spend in feedlots, consuming the increasingly costly grain.

Presumably, this would result in lower production costs that could be passed on to the consumer. The savings could be substantial. Haven Henricks, a livestock specialist at the University of Nebraska, says about 2.5 billion pounds of excess fat were trimmed from beef carcasses last year; it cost some $1.6 billion to do this, but the trimmed fat had a byproduct value of only $450 million. Thus, there remained a $1,150,000,000 "fat loss" that was either absorbed by middleman or passed on to consumers, Mr. Henricks says.

"No one wants fat meat," says one meat packer favoring the grading changes. "Butchers don't like it because it costs them money to trim it, and consumers won't buy fatty meat any more." Back in the days of abundant, low-priced grain, the amount of fat wasn't a matter of consequence, he adds. "But new grain is scarce and high-priced. Wasting it is worse than wasting fuel during an energy crisis."

SAVINGS OF ABOUT $20 A HEAD

An official of the American National Cattlemen's Association says the new grading standards would take about 15 days off the time a steer spends in a feedlot (currently about 90 to 120 days, resulting in a savings of about $20 a head. Meat-industry analysts say this could result in average savings at the retail level of five cents a pound.

Cattle feeders would like to save on their grain costs, because they have been a major cause of an estimated loss by feeders of $2 billion in the last year or so. The Cattlemen's Association says the average cost of adding a pound to a feedlot steer has doubled to 60 cents in the last two years.

Feeding cattle for the shorter period that would be required by the new standards would result in as much as 10% reduction in the amount of feed grain consumed annually, or about four million tons based on the 40 million tons eaten by animals in each of the last several years the Cattlemen's Association estimates.

The changed standards also would reflect an apparent increase in consumer demand for leaner meat, in many cases for health reasons. Meat also is produced differently today, notes Zerle Carpenter, a beef specialist at Texas A&M University. "Cattle reaches marketability at a younger age than it did 10 years ago," he says. And many of the cattle currently raised in the U.S. are faster growing, earlier-maturing breeds not in the U.S. when the existing standards were written, observers say.

"The current standards are outdated," adds one cattle feeder. "We're using Model T standards and we're producing LTDs." Grain-fed cattle graded good today isn't the same meat as yesterday's grass-fed steer that also was graded good, another feeder says.

For all the claims made for the proposed standards, it isn't hard to find people who oppose them and who vigorously dispute the assertion that lower beef prices will result. The general thrust of the critics' charges is that the proposals will result in a lot of beef currently rated good being sold as choice beef at the higher choice beef prices.

"NAME-CHANGING EXERCISE"

Some observers say as much as 20% more cattle will be graded choice instead of good if the recommendations are adopted. Choice beef is the most popular among consumers. In addition, possibly 3% to 4% of choice beef under current standards would be given the highest rating of U.S. Prime, some analysts contend.

"It's a name-changing exercise," says a spokesman for the National Restaurant Association. This type of "lowering of standards" has been done before, says Cyril L. Kegler, a Cedar Rapids, Iowa, operator of restaurants in more than two dozen cities. "This continuing process of lower-priced beef being pushed up into higher costing grades has done nothing identifiable but gain higher prices," Mr. Kegler contends.

He and the Restaurant Association recommend instead the establishment of a new beef grade between choice and good that would "give the consumer the leaner beef he wants without having to pay choice prices for yesterday's good beef."

Many meat packers also oppose the proposals because of their condition that all beef graded for quality (characteristics of the meat, such as marbling) also be graded for yield (the amount of red meat in a carcass). Currently most beef is quality graded only, and on a voluntary basis; only about one-third is graded for both quality and yield. Packers oppose mandatory yield grading because they say it would increase their costs, as they have to pay for the government-performed inspection. "These increased costs would inevitably be passed on to the consumer," says a spokesman for the Western States Meat Packers Association.

Proponents of mandatory yield grading say it would discourage overfeeding that adds fat to animals and otherwise would encourage more efficiency in production.

Even if beef production costs are reduced by the standards, that doesn't guarantee lower retail prices because the savings would be eaten up by other cost increases says a supermarket-industry official. Proponents say that without the new standards, beef prices will rise much further than they would with the new rules.

Hearings on the proposals began last week. The Agriculture Department will accept comments on the matter until Dec. 10 before deciding whether to adjust the proposals before adopting them. The new rules could become effective as early as next February, an Agriculture Department official says.

[From the Drovers Journal, Sept. 19, 1974]

GOSSETT STRESSES NEED FOR BEEF GRADE CHANGES

Leaner, low-fat, high quality beef could well be on its way to meat market counters

as a result of recent proposals for changes in present USDA beef grading systems, believes Dr. J. W. Gossett, executive secretary of the American-International Charolais Association of Houston. He said proposed changes by various segments of the beef industry would give the consumer more preferred quality lean beef per dollar spent at the retail meat counter, and at the same time would reduce the cost to the producer and feedlot operator for production of that beef.

"These proposed changes would recognize the high qualities of younger, faster-growing and more efficient beef cattle—the kind that most breed associations and university research and agricultural extension people have advocated for many years," he said.

The changes have been proposed to the USDA by the American National Cattlemen's Association, the Advanced Beef Breeds Federation, major feeder organizations, and packers. Recommendations from Beef Breeds Federation, major feeder organizations, and packers. Recommendations from these organizations place emphasis upon a good balance of growthiness, high quality and cutability of cattle reaching the market place. The Charolais association recommended similar changes 18 months ago.

FORCED TO OVERFEED

"Too much emphasis has been placed upon the term 'choice grades' of beef in recent years. As a result, feeders have been forced to over-feed their cattle for 30 to 60 days in order for those animals to lay on sufficient fat to reach the Choice grade," Dr. Gossett explained.

"This over-feeding resulted in excessive amounts of external fats which only served as a liability to the producer, the feeder, and the consumer. This excess fat could only be trimmed and discarded at a high cost to the consumer.

"It has been shown by long-time university research and feeders that it requires two and one-fourth times as much energy to put on a pound of fat that it does to produce a pound of quality lean beef. This is fat which the consumer does not want but must pay for in her neatly trimmed pre-packaged cuts at the meat counter.

"Eating qualities of these younger, leaner cattle are essentially the same as for the older, over-finished cattle, but without the excess fat. Young lean beef is highly palatable, flavorful and tender. In fact some major chains on the West Coast already have switched to promoting this type of beef because of its leanness and preferred eating quality.

SADDLED WITH HIGH COSTS

Gossett noted that the beef industry is in an era of high production costs, and feeders could use the savings of lower production costs which would result from producing less fat.

"A 10 to 20 per cent savings on total grain fed to fat cattle every year could be achieved and a more attractive product produced if producers and packers were not saddled with the essentially one-grade system that encourages the production of waste in order to meet the marbling requirements of the Choice grade. A more orderly flow of cattle to the market could be another benefit for the consumer."

Progressive beef industry leaders for many years have described the current grading system as "antiquated" and one that places more emphasis upon older overfat and inefficient cattle than it did for the younger cattle now being produced. Nor has it kept pace with changes within the industry or with changes in consumer preferences.

Changes recommended by the ANCA, the ABBF, feeders, packers, and some individual breed associations would place the consumer in a preferred position and at the same time get the grading system on level with the modern kind of cattle now being produced, Gossett believes.

[From the Christian Science Monitor, Oct. 22, 1974]

WILL U.S. RELAXATION OF GRADING POLICIES LOWER BEEF PRICES?

(By Lucia Mouat)

WASHINGTON.—High prices and periodic boycotts aside, America has become a nation of beef eaters.

The big question now being debated in consumer and livestock industry circles is what effect, if any, the U.S. Agriculture Department's proposed changes in beef grading standards will have on meat prices and U.S. eating habits.

While America currently has what many insist is an "oversupply" of beef, many cattle slated for market have been slaughtered at a younger age than usual or kept grazing longer on grass to avoid the high cost of being fattened on grain.

Though consumers complain about soaring prices at the supermarket—beef prices have shot up 88 percent in the last decade—producers complain every bit as loudly that they are not nearly covering their cost. C. W. (Bill) McMillan, executive vice-president of the American National Cattleman's Association, says feedlot operators have out-of-pocket losses about $100 a steer.

CONSUMPTION DOUBLES

While many supermarket shoppers have opted for cheaper sources of protein, such as cheese, the facts are that U.S. per capita consumption of beef, however costly, is up to 116 pounds a year, more than double what it was 20 years ago.

Though hardly billed as the end-all answer to the price problems plaguing both the beef producer and the consumer, the Agriculture Department's proposed grading change, announced this fall, is being billed as a step in the "public" interest.

Grading, intended as a measure of beef quality, is a voluntary service which the USDA has been performing for a fee paid by packers for close to half a century. Roughly 80 percent of the meat sold in retail stores now is stamped USDA "prime," "choice," or "good."

What the Agriculture Department, in effect, wants to do is relax its standards for the top quality grades—prime and choice—by letting leaner meat qualify.

MARBLING UNDER STUDY

One of the traditional measures of quality—which the Agriculture Department describes as tenderness, flavor, and juiciness—has been marbling or flecks of fat within the meat. Generally the federal view has been that the older the cattle, the tougher the meat, unless increased marbling is required to compensate.

The Agriculture Department says the grading change is prompted by suggestions from consumers, who want less fat in their meat, from the beef industry, and from the government's own research.

The department claims that agriculture studies show for the first time that if cattle are under 30 months old, increased age doesn't significantly affect beef quality. Thus the USDA wants to tone down the marbling requirements for the top two grades without sacrificing quality.

For producers, well aware that "choice" beef is the shoppers' favorite, this would mean that cattle could be slaughtered at a younger age to qualify for that grade and that feed time on expensive grains could be cut down accordingly.

"We think we could safely cut about 15 days of food," says Mr. McMillan, who explains that under current prices that would be a saving of about 400 pounds of grain or $22 per cow.

TENDERNESS THROUGH YOUTH

"Instead of tenderness through marbling, they'll be getting it through youth," comments Clarence Adamy, president of the National Association of Food Chains, who describes the USDA proposals as "an intelligent move in the right direction."

As part of its grading plan, the USDA also proposes a tighter standard, by slightly increased marbling requirements, on meat graded as "good."

John Pierce, director of the livestock division of the department's marketing service, explains:

"We've had complaints that 'good' was too wide to be workable."

The change, he says, would narrow the present range of quality within that grade by one-third.

Lastly, the shifts would require that grading take into account only quality and yield —a quantitative measure that shows the proportion of lean to fat and bone. The USDA hopes by the move to make the quality of beef within each grade more uniform as a result.

Mr. Adamy confirms that wide variation within each grade as standards stand has been a problem:

"Our big fight is consistency—the consumer who buys a steak wants to be able to come back and get roughly the same kind next time . . . we have to be much narrower than USDA grades are now."

When the grading proposals were first unveiled in September, there were rhapsodic predictions about what the grain savings might mean for the world's hungry and the consumer's pocketbook. However, no one is particularly talking about these points now. Except as a point of economic theory.

Though stressing that cattle producers are going through "the economic meat grinder," Mr. McMillan concedes: "There's every reason to think consumer prices should come down if production doesn't cost as much."

"I don't see how the department can make any price predictions," says USDA's Mr. Pierce, pointing out that the changes recommended are "not very drastic."

CONSUMERS DOUBTFUL, TOO

Consumers have had their doubts, too, as to whether they will ever be able to buy beef for less.

One congressman who has been particularly critical of the department's proposals is Rep. Peter Peyser (R) of New York. Calling the grading shift an "intentional act of deception," the New York congressman says the effect will be to serve up a "lower grade of meat at higher grade prices." Suggesting that the changes will most directly benefit processors and retailers, he proposes that instead a "special" grade of lean meat in between the present "good" and "choice" grades be established.

Some of the strongest consumer criticism has been aimed not at the USDA proposals themselves but at the lack of nutritional information accompanying them. They say they want to know what the changes will mean in terms of less or more protein, for instance.

NUTRITIONAL LABELING LOOMS

"I expect we'll see some nutritional labeling, maybe even of meat but it's a different subject than meat quality," says Mr. Pierce. "I don't think of the two subjects being intertwined."

Mr. Pierce stresses that the proposed changes are far from final.

Public comment is welcomed at the department until Dec. 10; already Mr. Pierce has received about 100 letters. He concedes that more are opposed than in favor of the change.

Hearings are scheduled the next month or so in Atlanta, Dallas, New York, and San Francisco.

The earliest date when the proposals might become effective if the desired support rolls in is February.

If you have an opinion write your comment in duplicate to:

Hearing Clerk
Room 112A
U.S. Department of Agriculture
Washington, D.C. 20250

[From the Drovers Journal, Nov. 14, 1974]

CITE ADVANTAGES IN BEEF GRADE CHANGES

COLUMBIA, MO.—The proposed changes in beef grading would step up the move toward leaner beef, give cattle feeders some relief from the high cost of concentrates, and make other positive improvements without harming the cause of the consumer, a group of speakers declared last week at the University of Missouri's seminar on the subject.

The panel included a food scientist, home economist, agricultural economist, and beef cattle specialist. They seemed to agree unanimously that the USDA's proposed changes would be desirable.

"The proposed changes on beef grading would exert pressure for trimmer, less wasty carcasses," said Dr. Albert J. Dyer, chairman of the University of Missouri department of animal husbandry. "Using present systems of production, that means less grain would need to be fed to make the grade. Less grain means less cost. Less cost means either reduced loss or more profit. In 1974 it would mean a reduction in loss because of concentrates in 'killing' the cattle feeder, and the cattle feeder, in turn, is 'killing' the price of feeder cattle. Both the cattle feeder and cow-calf producer are in hard times."

From the consumer's standpoint, Choice beef probably wouldn't be any less expensive under the new grades, but it could be more nutritious, said Mrs. Treva Kintner, home economist who spoke. She noted that the nutritional value of beef is in the lean (protein), not in the fat. She said many food experts say less fat in the human diet would be a good thing.

"It's true that some of the flavor of meat is in the fat," she noted. "But if the leaner meat is properly prepared, it can taste just as good."

BOTH QUALITY, YIELD

Harolod Hedrick, UMC food scientist, explained that any arguments concerning the proposed changes must be submitted to USDA by Dec. 10. If the changes are made, all beef carcasses (except bull carcasses) would be identified with a quality grade and a yield grade. The quality grades would include the familiar Prime, Choice, and Good grades. The yield grades would be a ranking system from 1 to 5 with No. 1 having the least amount of waste.

James Rhodes, UMC agricultural economist, emphasized that the grade revision would not force a difference in what retailers handle and consumers buy.

"If retailers want to stay with the present Choice, they can still identify and buy it, even after the grade boundary is changed," he explained.

If the leanest Choice seems too lean to a chain or its customers, they can specify a fatter Choice in their purchasing specifications. It's still a free and open market system."

Some have suggested that future demand for beef will be endangered by compromising quality because of the current short grain supply situation. Rhodes said the grade changes will have so little effect on the taste and tenderness, that the consumer won't notice the difference.

In fact, the changing grades will have more of an effect on cattle producers than it will on consumers.

LONGER ON FARM

"This will probably put 10 percent more of the cattle sold in the Choice grade," said Dyer. "That means cattlemen will be getting a higher price for them than they would under the old system. That does not mean they will be making higher profits.

"When a cattleman feeds more grass and other roughage and less grain, it takes them longer to get the cattle to market. Many cattle will be hitting the market when they're 18 to 24 months old instead of 14 to 18 months. The extra time these cattle spend on the farm costs money. It ties up land and facilities, delaying the time the next group of animals can be fed out."

Dyer pointed to figures which showed that the last 200 pounds put on a grain-fed steer has a ratio of four pounds of fat to every pound of protein. With grass-fed animals, that ratio is about 1 to 1.

In most cases, cattlemen are not eliminating grain feeding. They're just cutting back on time the cattle are fed grain.

For example, said Dyer, many cattlemen are feeding their animals just roughages (mostly grass and hay) until they weigh 700 to 800 pounds. Then, with just about 20 bushels of grain mixed with the roughage, the animals can be "finished" for market in another 90 days.

BEEF GRADE REVISIONS

(By John Pierce)

Before getting into the intricacies of the September 10 proposal for revising the beef grade standards, I would like to take a few minutes to comment on the broad role of the beef grading system in marketing. Also, I rarely overlook the opportunity to point out a few of the facts about the origin and development of our grading system. This is deliberate, for most of us cannot remember 47 years ago when grading had its beginning. To us, grade standards for beef have simply become an integral part of the vocabulary or language of commerce in the beef business.

The impetus for Federal grading came from producers who formed an organization known as the Better Beef Association with the primary purpose of instituting a Federal grading service for beef. It was their contention that, if beef could be identified for quality, consumers would buy beef with greater confidence and increase their consumption, which in turn would indirectly stimulate the production of more and better beef cattle. In effect, they were looking for a system through which consumer preferences—as reflected in the marketplace—could be signaled back to them on the production line. As I have said many times before, this concept seems to me to be just as sound today as it was in 1927.

Let's reflect for a moment on the role of grades in expediting the marketing process. We mentioned the function of serving as a common denominator for transmitting signals about demand. Also, immediately we think of the grademark as a means of consumer selection. This is a basic use, yet many consumers are still unfamiliar with grade terminology. Therefore, the retailers' use of grades to maintain a uniform beef quality which satisfies their customers helps to accomplish the same basic purpose. The ability of retailers to buy virtually nationwide without the necesssity of personal selection not only reduces a marketing cost, but also has helped to make the market for beef national in scope. Grades open the sales outlet to packers on a national scale virtually from the day a plant begins production. Likewise, cattlemen benefit from the broader competition for their cattle from new as well as established packers and from small as well as large packers.

In developing standards, our objective is that of measuring those factors that affect market acceptability and value which are not otherwise readily identified in the marketing process. In beef, these factors can be narrowed down to two categories: (1) factors which we associate with eating quality and which are identified by the quality grade, and (2) factors that affect the yield of trimmed retail cuts from the carcass or the yield grade.

I would point out that we have technicians in the Livestock Division who are continually reviewing our grade standards as an ongoing activity. They also plan and carry out both long- and short-range projects aimed at improving the accuracy of the grade standards and their usefulness in expediting the marketing process.

However, as many of you know, during the last 12 to 18 months, recommendations for specific changes in the beef grade standards have been filed with USDA by many different segments of the cattle and beef industry. These recommendations have been quite diverse and have ranged from a strong endorsement of the present standards to suggestions for substantial changes in the emphasis on the basic grade-determining factors. Some of the recommendations were carefully researched over a period of months by sincere, dedicated students of the subject. Why has the interest in beef grades become so intense at this time? Have we had a significant breakthrough in new information that has triggered the interest? Unfortunately, this at best would constitute only a partial answer. The instability and changing environment of the beef business is a story you know well. The changes in production that have been underway for some time, as well as the recent economic pressure, have influenced the characteristics and the consist of beef being marketed—and these changes have created further industry interest in revised standards. Also, the recommendations of one group frequently trigger recommendations from others with a different viewpoint.

Consequently, I suspect that many feel that a USDA proposal for revision was and is overdue. Perhaps we could agree in part, since some of the changes have been included in previous USDA proposed revisions.

Now let me briefly outline the major revisions in the beef grade standards proposed on September 11:

The first proposal provides for the elimination of conformation from the factors used in determining the quality grade. While conformation has historically been a part of the grading system, research has adequately demonstrated that it does not affect the eating quality of beef. On the contrary, it does increase the range of quality in the grade because quality is used to compensate for a deficiency in conformation. For example, a carcass can have Prime quality and Good grade conformation, and the final grade would be Choice—a grade that differs from any of the characteristics of this particular carcass. The basic impact of the change would be two-fold. To the consumer-buyer, it would result in a more uniform and consistent quality grade. To the producer, it could reduce the feeding cost for those cattle that are now fed to a quality grade higher than their conformation. As you know, this is not a new idea. It was proposed in 1962 but was part of a proposal that was not adopted at that time. We recognize that conformation as a measure of muscling affects carcass value. However, we have determined that the contribution of muscling to carcass value is more accurately measured and reflected by the yield grades. Therefore, we propose that the full contribution of conformation be measured by the yield grade.

The second proposal is that all carcasses graded be identified for both quality grade and yield grade. While this requirement is tied in with the elimination of conformation as a separate factor, there is a more basic reason for the proposal. Both grades affect value and market acceptability and provide the means for increasing pricing efficiency. The significance of yield grades has

become increasingly evident since their adoption for optional use as a new dimension in the grading system in 1965. For example, carcasses within the Choice grade can and do vary in value as much as $75 due to differences in yield of trimmed retail cuts. Yield grade identification on all graded carcasses is considered essential for reflecting full and appropriate price differences in trading. This proposal may have the greatest long-range effect of any of the revisions under consideration. The use of yield grades can provide a further incentive for increasing the production of so-called "meat-type" cattle, or those that have the genetic ability to combine high cutability and high-quality lean with a minimum of excess fat. The estimated cost of producing, shipping, and trimming of excess fat on beef is more than $2 billion annually. Increased emphasis on yield grades could substantially reduce the excess fat on beef carcasses and increase the edible proportion—to the mutual advantage of the consumer and the involved segments of the producing and processing industries.

The third major revision proposed relates to the marbling-maturity requirements of the quality grades. For beef from cattle under about 30 months of age, the minimum amount of marbling required in each grade—except Good—would be sent at the level now required for the youngest carcasses that qualify as beef in the respective grades. The present standards are based on the premise that marbling enhances eating quality of beef, while increasing age has the opposite effect. Therefore, the present standards require increasing amounts of marbling with increasing evidences of maturity in the carcass. While the research results are less definitive than would be desirable, the preponderance of research reported in recent years has indicated that changes in maturity within this young cattle category do not have a significant effect upon eating quality. Consequently, the minimum marbling requirements presently prescribed for the youngest cattle in each of the grades of Prime, Choice, and Standard will apply throughout the "A" maturity or young cattle category. For the more mature beef in each of these grades, the principle of requiring increased marbling with increasing maturity is being retained. The net result of this change will be to provide for slightly leaner beef in both the Prime, Choice, and Standard grades, and a resultant slight reduction in the amount of fat trim required. The feeding time to achieve Prime or Choice grades will be reduced, which—with other conditions remaining the same—would tend to encourage a greater production of these grades than at present.

The other major aspects of the proposal would make the Good grades more restrictive than at present by reducing the range of quality by one-third. The present Good grade has been criticized by many as a nonworkable grade because of its variability. In the past few years, it has been evident that changes in the kinds of cattle being produced—larger and slower maturing cattle—would likely result in an increasing supply of Good grade beef. During the past several months, the volume of beef of this quality has increased very substantially. The increased production of this type of beef may be a long-range change. The intent of the proposal is to provide a very consistent quality—but restrictive—grade that should appeal to consumers who prefer beef with somewhat less internal and surface fat than now found in the Choice grade.

In summary, I have attempted to give you a factual presentation of the major changes involved in the proposal. I have not discussed minor changes or the impact of the proposal upon day-to-day grading operations. The USDA proposal may not fully satisfy any segment of the industry or the consuming public when viewed from a single vantage point. But it represents a package approach which we believe is in the long-term best interests of all concerned. While this proposal represents our best efforts to make the grade standards more precise and useful, it is only a proposal. The public has been provided an opportunity to comment on the proposal throughout a 90-day period which ends on December 10. Comments to date, as you would expect, have been both for and against the proposal. It should be recognized that in evaluating the comments, we are not conducting a simple popularity poll. We will be particularly interested in constructive comments or suggestions that give supporting reasons for either adoption, rejection, or modification of the proposal. Hopefully, any proposal for change that may be adopted will give primary consideration to a more accurate identification of beef.

THE TRADE BILL

Mr. PERCY. Mr. President, I have stood on the floor of this House numerous times during this session of Congress and testified to my support for the 1973 trade reform bill. I am an unabashed, longstanding supporter of open trade and this body knows of my opinions.

I did so when an industrialist in a business highly but wrongly protected by tariffs, and I do so now as a Senator from a State, like many States in the United States, whose prosperity is dependent on the continued flow of international trade. Illinois is the second largest exporter among the 50 States and it is estimated that more than 300,000 jobs in my State are dependent on foreign trade. More than 6 percent of the industrial production of the State is exported and 25 percent of the agricultural production. For example, the biggest private employer in the State is Caterpillar Tractor. Over 24,000 of the 61,300 U.S. employees now depend on continued export sales for their jobs. Furthermore, the balance of payment contribution of Caterpillar in 1973 was in excess of $1 billion. Therefore, this bill is critical to me, critical to my constituents and critical to the economic welfare of the United States.

But we also must be able to appreciate how other nations may view our vote on the trade bill. The idea of another round of trade negotiations was a U.S. initiative. In 1971, as a critical part of the negotiations on new international exchange rates, the United States insisted that trade negotiations must be an integral part of the monetary settlement. It was reasoned by U.S. negotiators that the demand for currency is generated by the flow of commerce, and to have floating exchange rates that reflect market conditions it was necessary to have an open trade market. Tariff and nontariff barriers inhibited commerce and therefore could be used to manipulate exchange rates. If these trade barriers were not reduced, what was gained at the negotiation table could be lost in the customs houses of the world.

In response to this U.S. position, both Japan and Europe, especially the Common Market, overcame numerous political barriers and committed themselves to trade talks as part of the Smithsonian Agreement in December 1971. The first trade talks began in Tokyo in October 1974. The only country present which did not have a mandate to negotiate was the United States. Congress had accepted and passed on the results of the Smithsonian negotiations but for 2 years has been debating the merits of a new round of trade negotations. The country which initiated the effort for trade negotiations and has the most to benefit from open trade in the future has yet to politically commit itself.

It is this political commitment that other nations are watching closely. The United States exports only 5 to 6 percent of is gross national product—GNP—and it is not as heavily dependent on trade as other nations. Germany, the second largest producer in the free world, exports 20 percent of its gross national product and Japan, the third largest producer, exports 10 percent of its GNP. The growth of the economies of most of the world's industrial nations and all of the developing nations rests on the expansion of world trade. They are all watching the United States closely.

This is especially true in today's nervous economic world. The worldwide inflation and the fourfold rise in world oil prices has shaken the confidence of many people and many nations. There are numerous less-developed countries and a number of industrialized nations which face the grim specter of international bankruptcy. Their position is not strengthened by the recession which is now slowly tightening its grasp on industrial output in the United States, Europe, and Japan.

In recessions, with growing internal unemployment, there is a very natural political tendency to play the short run, to believe that imports deprive Americans of jobs and to move for isolationist trade policies. What is well known is that other countries will not tolerate their imports being banned while still buying exports from the banning nation. Not only does it not make political sense, but in terms of economics other countries need the dollars generated by their own exports to buy our exports. A Senate vote against the trade bill will be interpreted overseas as an isolationist vote. This bodes evil for U.S. exports and U.S. jobs. We now have unemployment at 6.5 percent. We do not need more.

I will not deny that increased trade does displace jobs in certain industries whose products can be produced more cheaply overseas. Because of my concern over this issue I have testified before the Senate Finance Committee to liberalize the application of and to strengthen the trade adjustment assistance programs. On the other hand, the American consumer benefits from products with cheaper prices because they are anti-inflationary.

As the largest economy in the free world, we benefit from the growth in the world economy and the growth in world trade as long as we hold our market shares. The figures indicate that our market shares since the revaluations in 1971 and 1973 have expanded. If the United States were not paying so much for oil, we would actually have a balance-of-trade surplus of $8 to $9 billion.

I therefore strongly advocate the passage of this bill. I plead with my colleagues on this floor not to introduce amendments that are not germane to the is-

sue of trade that is before us. It is not that the issues in these amendments are not significant—in most cases they are—but that they should be debated by this body individually. We cannot risk a trade bill encumbered by numerous amendments which will doom it in this session of Congress. I have the faith in this body that this will not be the case.

THE ATMOSPHERE OF GLOOM

Mr. BROCK. Mr. President, nationally syndicated columnist Tom Braden has written a very timely article concerning "the Atmosphere of Gloom" which has enveloped the Nation in the aftermath of Watergate. Mr. Braden draws a thought-provoking analogy between the attitudes and actions of the press and much of the Congress today and those of the late Senator Joe McCarthy. The traditional rules of debate have been reversed, says Mr. Baden, and as in the McCarthy days, accusations are being made without any evidence, forcing the accused to try to prove negatives.

We have all been disturbed by the events of Watergate. But to allow a new era of suspicion to rise in its wake will only harm us more. Mr. President, I ask unanimous consent that Mr. Braden's fine column be printed in the RECORD for all my colleagues to see.

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

THE ATMOSPHERE OF DARK SUSPICIONS

(By Tom Braden)

Rep. Elizabeth Holtzman (D-N.Y.) is an earnest and intelligent woman with a liberal voting record, and nothing in that record suggests that the late Sen. Joseph McCarthy in the manner in which Rep. Holtzman handled President Ford when he appeared last week before the members of the House Judiciary Subcommittee.

Mr. Ford had detailed the story of the Nixon pardon and had assured the committee members that there was no deal. After that, Rep. Holtzman had a word to say:

"There are very dark suspicions," she told the President, "and I sincerely hope they are not true. Nevertheless, we must confront the reality of the suspicion."

Unwittingly, Rep. Holtzman thus denied the post-Watergate atmosphere of this capital city. You can try it out on your neighbor. Tell him you have a dark suspicion. Does he burglarize in the dead of the night? Tell him you hope your suspicion is not true, but there it is, a fact which must be recognized.

After he has denied it, you can say you still have the suspicion. This is exactly what Rep. Holtzman did to President Ford.

At the moment, this town is manic with suspicion. Rumors see print under no greater legitimacy of source and fact than "It has been reported . . ." Newspapermen scramble over each other to call upon those who ever knew Nelson Rockefeller and to ask whether he gave Christmas presents—"What? How much do you think it cost?"

Nobody is above suspicion; the higher the office or the more seemingly unimpeachable the character, the greater the suspicion. Secretary of State Henry Kissinger did not originate U.S. covert action in Chile. It goes back at least to the Johnson Administration, and it took place against the backdrop of covert action in Chile by the Castro government and the Russian.

But does anybody in the press concentrate on the policy or the history of the policy, or argue the pros and cons of the policy? Not at all. The Secretary of State, the press tells us, was "devious," as though Fidel Castro, Leonid Brezhnev and Salvador Allende were men who would turn pale at the thought of secret funding or covert action.

In the days of Sen. McCarthy, much of the press of this city behaved bravely. Running the risk of being called "fellow travelers" or "left-wing ideologues" or outright "Communists," newspapermen pointed out that McCarthy was reversing the traditional rules of debate. He was making accusations without any evidence, forcing the accused to try to prove negatives.

Today, the press and much of Congress have adopted McCarthy's role. Nelson Rockefeller's gifts to state officials are fair subject for investigation and comment. But even ordinary acts of human generosity are now suspect, and gifts to old retainers and employees, to secretaries, friends and neighbors are reported as "allegations" which ought to be "cleared up."

It is all very well to say that Richard Nixon started all this—that he and his men lied to us for so long and so well that we all feel gulled and are determined not to let it happen again.

But surely the same press which demonstrated the courage and the initiative to put an end to the era of Watergate can summon the self-discipline to prevent an era of suspicion from taking its place.

THE EMIGRATION AGREEMENT

Mr. PERCY. Mr. President, in connection with our consideration of the agreement on emigration, I would like to express briefly my own deep concern that it will not be fully or fairly implemented so long as freedom of posts, telephone and telegraph is impaired.

We all are aware of instances where telephone service to applicants for emigration and to dissidents has been cut off. I understand also that there has been a problem of nondelivery of invitations mailed from relatives in Israel to Soviet Jews, invitations which are necessary to them to begin the emigration process.

Human rights are not divisible. Freedom to emigrate, freedom to return to one's country, freedom of postal, telephone and telegraph service, freedom of expression, freedom of the press, freedom to publish, freedom to worship—all are essential and part of a whole. With the agreement on emigration we have made an important contribution in the field of human rights. I hope that it will lead to further progress in human rights for all those who do not enjoy basic civil, social and political rights anywhere in the world.

CAMPAIGN REFORM

Mr. BROCK. Mr. President, it is my belief that Congress, in its desire to reform the national campaign practices, has made some errors that may result in violations of the constitutional rights of persons and groups engaged in political activity. I am all for laws enforcing ethical campaign practices, that is effective and strong laws. But I also believe we must guard the freedoms guaranteed the citizens of this country. I call to the attention of my colleagues an editorial from the Dallas Morning News, and ask unanimous consent that it be printed in the RECORD.

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

REFORM "IN NEED OF REFORM"

It was inevitable that the last session of Congress would produce some variety of 'campaign reform'—given the public's wrath over dirty tricks and laundered money. It was inevitable, too, that President Ford would sign the bill—given the political necessities proceeding from that wrath.

But the campaign reform act is a manifestly imperfect document; it needs vast improvement if we are to live with something so extraordinary as government financing of political campaigns and government ceilings on political contributions.

First of all, as one of the bill's principal House sponsors, Rep. William Frenzel of Minnesota, concedes there are 'at least 100 items (in the bill) questionable from a constitutional standpoint.' Not the least of those items is the $1,000 ceiling on aggregate contributions an individual may make. Does this unwarrantably limit the right of free speech? If it does, the matter needs to be resolved before 1976. An early court test is assuredly in order.

Next there must be restrictions—they are wholly absent from the present bill—on the donations that unions may make to candidates. Just like business, the unions have to observe spending ceilings. But those ceilings do not compass services the unions provide pro-labor candidates—such as voter-registration campaigns (carried out mainly in pro-Democratic neighborhoods). If the union wants to pump volunteers into a friendly candidate's campaign, it may do so under the new law, notwithstanding that those volunteers may be working on salary from the union.

This is hardly to contend that labor should be shut out of the political process. It is only to say that labor should have no political advantages denied business.

The campaign reform act is likely to redound to the benefit of incumbents, who are ipso facto better known than their challengers. Both are supposed to spend like amounts of money. So at the very minimum, loopholes which favor the incumbent ought to be closed. The services that national party committees (e.g., the Democratic Senatorial Campaign Committee) provide candidates are presently exempt? they do not have to be reported. Neither do the services of a senator's or representative's aides; nor the cost of his newsletters.

All this is very cozy for the incumbent; but what about the brash challenger, who has no government-salaried aides, no federal franking privilege to cover postage for his newsletters? It may well be necessary to let challengers spend more reportable money than incumbents spend.

The act is likewise unfair to third parties. Only after they receive 5 per cent of the vote in a national election do their presidential candidates qualify for government money. This may discourage kooks from getting up third parties just for the sake of receiving federal endowment. But a legitimate third party surely has as much claim on the federal purse as do the two major parties.

In fine, the campaign reform act is about as problematical a piece of legislation as the country has ever confronted. As to how it will work—if it works at all—even its backers are unsure. One thing is certain: It will work most unjustly if there are not some major changes. Here is one reform law that itself needs reforming.

PROBLEMS AT THE U.N.

Mr. PERCY. Mr. President, on December 6, 1974, Ambassador John Scali, U.S.

Permanent Representative to the United Nations, made a very important address in plenary session at the U.N. General Assembly. It is a statement that deserves the time of every Member of this body, and therefore I shall ask unanimous consent that it be inserted in the RECORD following my remarks.

The thrust of Ambassador Scali's speech was that a majority of small nations in the General Assembly are adopting unenforceable, one-sided resolutions which, he said, "destroy the authority of the United Nations . . . (and) encourage disrespect for the (U.N.) Charter, and for the traditions" of the U.N.

Ambassador Scali stated that there is a "tyranny of the majority" operating at the General Assembly with "brutal disregard" for the sensitivities of the minority, although the minority is sometimes a practical majority in terms of population, wealth, territory, and capacity to support the U.N. and implement its decisions.

As a member of the U.S. Delegation to the 29th U.N. General Assembly, I have experienced at firsthand the situation of which Ambassador Scali has spoken so eloquently. It is my own conviction that the U.N. cannot prosper so long as resolutions are passed and decisions adopted which do not respect the legitimate views and interests of the major developed nations as well as of the developing nations. At a time when longtime adversaries such as the United States and the Soviet Union, and the United States and China, are finding ways to temper their disagreements and resolve their differences, it would be my hope that member states of the U.N. could also negotiate and conciliate on the problems of the world community which come before them in the General Assembly. If the General Assembly continues to be used by many member states as a forum for denunciation and condemnation, rather than for negotiation and conciliation, its authority will be tragically diminished.

I ask unanimous consent that the text of Ambassador Scali's address be printed in the RECORD.

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

STATEMENT BY AMBASSADOR JOHN SCALI

Last year the United States Delegation sought to call attention to a trend which we believed threatened the United Nations' potential as an instrument for international cooperation. We were deeply concerned then over the growing tendency of this Organization to adopt one-sided, unrealistic resolutions that cannot be implemented.

Today, more than a year later, my Delegation feels that we must return to this subject because this trend has not only continued, but accelerated. Added to this, there is now a new threat—an arbitrary disregard of United Nations rules, even of its Charter. What my Delegation spoke of 12 months ago as a potential threat to this Organization, unhappily has become today a clear and present danger.

The United States Government has already made clear from this rostrum its concern over a number of Assembly decisions taken during the Sixth Special Session last Spring, and during the current Session. These decisions have dealt with some of the most important, the most controversial, and the most vexing issues of our day: the global economic crisis, the turmoil in the Middle East, and the injustice in Southern Africa. I will not today discuss again our main concerns with each of these decisions. Rather, I wish to take this opportunity to discuss the more general question of how self-centered actions endanger the future of this Organization.

The United Nations, and this Assembly in particular, can walk one of two paths. The Assembly can seek to represent the views of the numerical majority of the day, or it can try to act as a spokesman of a more general global opinion. To do the first is easy. To do the second is infinitely more difficult. But, if we look ahead, it is infinitely more useful.

There is certainly nothing wrong with like-minded groups of nations giving voice to the views they hold in common. However, Organizations other than the United Nations exist for that purpose. Thus, there are Organizations of African States, of Asian States, of Arab States, of European States, and of American States. There are groups of industrialized nations, of developing nations, of Western and Eastern nations, and of nonaligned nations. Each of these organizations exists to promote the views of its membership.

The United Nations, however, exists not to serve one or more of these special interest groups while remaining insensitive to the others. The challenge of the United Nations is to meld and reflect the views of all of them. The only victories with meaning are those which are victories for us all.

The General Assembly fulfills its true function when it reconciles opposing views and seeks to bridge the differences among its Member States. The most meaningful test of whether the Assembly has succeeded in this task is not whether a majority can be mobilized behind any single draft resolution, but whether those States whose cooperation is vital to implement a decision will support it in fact. A better world can only be constructed on negotiation and compromise, not on confrontation which inevitably sows the seeds of new conflicts. In the words of our Charter, the United Nations is "to be a center for harmonizing the actions of nations in the attainment of these common ends."

No observer should be misled by the coincidental similarities between the General Assembly and a legislature. A legislature passes laws. The General Assembly passes resolutions, which are in most cases advisory in nature. These resolutions are sometimes adopted by Assembly majorities which represent only a small fraction of the people of the world, its wealth, or its territory. Sometimes they brutally disregard the sensitivity of the minority.

Because the General Assembly is an advisory body on matters of world policy, the pursuit of mathematical majorities can be a particularly sterile form of international activity. Sovereign nations, and the other international organs which the Assembly advises through its resolutions, sometimes accept and sometimes reject that advice. Often they do not ask how many nations voted for a resolution, but who those nations were, what they represented, and what they advocated.

Members of the United Nations are endowed with sovereign equality. That is, they are equally entitled to their independence, to their rights under the Charter. They are not equal in size, in population, or in wealth. They have different capabilities, and, therefore, different responsibilities, as the Charter makes clear.

Similarly, because the majority can directly affect only the internal administration of this Organization, it is the United Nations itself which suffers most when a majority, in pursuit of an objective it believes overriding, forgets that responsibility must bear a reasonable relationship to capability and to authority.

Each time this Assembly adopts a resolution which it knows will not be implemented, it damages the credibility of the United Nations. Each time that this Assembly makes a decision which a significant minority of members regard as unfair or one-sided, it further erodes vital support for the United Nations among that minority. But the minority which is so offended may in fact be a practical majority, in terms of its capacity to support this Organization and implement its decisions.

Unenforceable, one-sided resolutions destroy the authority of the United Nations. Far more serious, however, they encourage disrespect for the Charter, and for the traditions of our Organization.

No organization can function without an agreed-upon framework of rules and regulations. The framework for this Organization was built in the light of painful lessons learned from the disastrous failure of its predecessor, the League of Nations. Thus, the United Nations Charter was designed to insure that the important decisions of this Organization reflected real power relationships, and that decisions, once adopted, could be enforced.

One of the principal aims of the United Nations, expressed in the Preamble of its Charter, is "to practice tolerance and live together in peace with one another as good neighbors." The promise the American people and the peoples of the other founding nations made to each other—not as a matter of law, but as a matter of solemn moral and political obligation—was to live up to the Charter and the duly-made rules unless or until they were modified in an orderly, constitutional manner.

The function of all parliaments is to provide expression to the majority will. Yet, when the rule of the majority becomes the tyranny of the majority, the minority will cease to respect or obey it, and the parliament will cease to function. Every majority must recognize that its authority does not extend beyond the point where the minority becomes so outraged that it is no longer willing to maintain the covenant which binds them.

My countrymen have made a great investment in this World Organization over the years—as host country, as the leading financial contributor, and as a conscientious participant in its debates and negotiations and operational programs. Americans have loyally continued these efforts in a spirit of good faith and tolerance, knowing that there would be words spoken which we did not always like and resolutions adopted which we could not always support.

As the 29th General Assembly draws to a close, however, many Americans are questioning their belief in the United Nations. They are deeply disturbed.

During this 29th General Assembly, resolutions have been passed which uncritically endrose the most far-reaching claims of one side in dangerous international disputes. With this has come a sharply increased tendency in this Assembly to disregard its normal procedures to benefit the side which enjoys the favor of the majority, and to silence, and even exclude, the representatives of Member States whose policies the majority condemns. In the wake of some of the examples of this Assembly, the General Conference of UNESCO has strayed down the same path with the predictable consequences of adverse reaction against the United Nations. Innocent bystanders such as UNICEF already have been affected.

We are all aware that true compromise is difficult and time-consuming, while bloc voting is fast and easy. But real progress on contentious issues must be earned. Paper triumphs are, in the end, expensive even for the victors. The cost is borne, first of all, by the United Nations as an institution, and, in the

end, by all of us. Our achievements cannot be measured in paper.

A strong and vital United Nations is important to every Member State, and actions which weaken it weaken us all, particularly the smaller and the developing nations. Their security is particularly dependent on a collective response to aggression. Their prosperity particularly depends on access to an open and expanding international economy. Their ability to project their influence in the world is particularly enhanced by membership in international bodies such as the United Nations.

In calling attention to the dangerous trends, I wish also to call attention to the successes of the United Nations during the past year.

United Nations members overcame many differences at the World Population Conference and the World Food Conference. There was also progress at the Law of the Sea Conference. There was agreement on programs encouraging States to maintain a population which they can feed, and feed the population which they maintain. As a result of these United Nations Conferences, the world community has at last begun to grapple with the two fundamental issues which are central to any meaningful attempt to provide a better life for most of mankind.

In the Middle East a unique combination of multilateral and bilateral diplomacy has succeeded in halting last year's war and in separating the combatants. With goodwill and cooperation, the Security Council has renewed the mandate for the peace forces, allowing time for a step-by-step negotiating process to bear fruit. My Government believes that this negotiating process continues to hold the best hope in more than a quarter of a century for a just and lasting peace in that area.

On Cyprus, the Security Council, the Assembly and our Secretary General have all contributed to progress toward peace and reconciliation. Much remains to be done, but movement toward peace has been encouraged.

Perhaps the United Nations' most overlooked success of the past year resulted from the mission of the Secretary General's representative, Mr. Weckman-Munoz. This effort, which was undertaken at the request of the Security Council, succeeded in mediating a particularly dangerous border dispute between Iran and Iraq. This example of how to prevent a small conflict from blowing up into a much bigger war must rank among the United Nations' finest, if least heralded, achievements.

Thus, despite the disturbing trend toward the sterile pursuit of empty majorities, recent United Nations achievements demonstrate that this Organization can still operate in the real world in the interests of all its members. Unfortunately, failure and controversy are threatening to overshadow the record of successes. Its lapses, are long remembered and remain a source of lasting grievance for those who feel wronged.

Before concluding my remarks, I would like to say a few words, not as the United States Representative to this Organization, but as an American who has believed deeply in the United Nations since 1945 when, as a young reporter just returned from the war, I observed the birth of this Organization.

I must tell you that recent decisions of this Assembly, and of other United Nations bodies, have deeply affected public opinion in my country. The American people are deeply disturbed by decisions to exclude Member States, and to restrict their participation in discussions of matters of vital concern to them. They are concerned by moves to convert humanitarian and cultural programs into tools of political reprisal. Neither the American public nor the American Congress believe that such actions can be reconciled with the spirit or letter of the United Nations Charter. They do not believe that these decisions are in accord with the purposes for which this Organization was founded. They believe the United Nations, in its forums, must show the same understanding, fair play and responsibility which its resolutions ask of individual members.

My country cannot participate effectively in the United Nations without the support of the American people, and of the American Congress. For years they have provided that support generously. But I must tell you honestly that this support is eroding—in our Congress and among our people. Some of the foremost American champions of this Organization are deeply distressed at the trend of recent events.

A majority of our Congress and our people are still committed to a strong United Nations. They are still committed to achieving peaceful solutions to the issues which confront this Organization, in the Middle East, in South Africa, and elsewhere. They are still committed to building a more just world economic order. But the trends and decisions of the past few months are causing many to reflect and reassess what our role should be.

I have not come to the General Assembly today to suggest that the American people are going to turn away from the United Nations. I believe that World War II taught Americans the tragic cost of standing aside from an organized international effort to bring international law and justice to bear on world problems. But, like every nation, we must from time to time reassess our priorities, review our commitments, and redirect our energies. In the months ahead, I will do all in my power to persuade my countrymen that the United Nations can return to the path the Charter has laid out and that it can continue to serve the interests of all of its members.

If the United Nations ceases to work for the benefit of all of its members, it will become increasingly irrelevant. It will fade into the shadow world of rhetoric, abandoning its important role in the real world of negotiation and compromise.

We must join to prevent this. The reasons for which this World Organization was founded remain as valid and as compelling today as they were in 1945. If anything, there is added reason; the specters of nuclear holocaust, world depression, mass famine, over-population and a permanently ravaged environment.

If we are to succeed, we must now renew our commitment to the central principles of tolerance and harmony upon which the United Nations Charter was built. We must redouble our efforts to use this Organization as the world's ultimate instrument for compromise and negotiation.

I pledge my nation to these efforts.

ADMINISTRATION PROPOSAL—SULFUR DIOXIDE EMISSION CONTROL STRATEGY

Mr. BAKER. Mr. President, it is gratifying to learn of the apparent resolution by the Ford administration of uncertainty regarding the administration's position on the requirement of constant emissions reduction technology to control sulfur emissions, particularly from power plants.

I understand that the Energy Resources Council has recently agreed in broad outline to the proposal put forward by Administrator Russell Train of the Environmental Protection Agency which calls for an administration commitment to the use of constant emissions reductions limitations. As I understand the proposal the installation of scrubbers would not have to be completed in some instances until 1985, but in no case, would the primary or secondary health standards be exceeded by these delays.

In the Clean Air Act of 1970 the Senate Public Works Committee recommended and the Congress adopted a strategy of emission limitation as the method of achieving air standards. This strategy in my opinion is clearly not served by control techniques which would merely disperse pollutants without reducing total loadings of sulfur in the atmosphere. While technological problems have frustrated the execution of that strategy within the deadlines we set forth in 1970, I do not believe that there is reason to abandon the basic strategy.

Legislation which proposed to permit the permanent use of intermittent control strategies was transmitted to Congress by the Nixon administration last year, although it was expressly opposed by EPA Administrator Train. I declined to introduce that portion of the administration's environmental proposal because I did not feel that circumstances warranted such a drastic modification of clean air strategy and because I did not believe my Senate colleagues would support the measure. I continue in those convictions. Thus, I am pleased that the administration has determined to abandon this effort to effect a fundamental change of the sulfur control strategy in favor of a position seeking to aline compliance deadlines with the ability and availability of technology to meet them.

It is important that a strong and sustained research and development effort in constant emission control technology be supported by both Government and private industry. The Environmental Protection Agency specifically should give a high priority to this research and development work. I am assured by Administrator Train that this will be the case. In that regard, the recent congressional decision in the legislation establishing the Energy Research and Development Agency—ERDA—to leave pollution control technology R. & D. with EPA is a sound one.

Adjustment of the deadline for installation of continuous emission control equipment represents recognition of the realities. Additionally, the strategy of an orderly phase-in of such equipment should help minimize inflationary pressures on the equipment manufacturers, should give added time for diversification and improvement of technology, should avoid generating reliability problems which could accompany simultaneous installation of similar equipment throughout a system, and should permit a scheduling of equipment installation that gives highest priority to areas of greatest public risk. Perhaps the most important result of the additional time for the implementation of permanent control strategies, however, will be the opportunity it will provide for exploration of alternative technological responses to sulfur dioxide removal. I am not convinced at this point that "scrubbers" represent a reliable means to meet this standard.

As I understand the administration proposal, intermittent controls, for example, fuel switching, would provide an enforceable and reliable interim means of

achieving standards prior to the installation of permanent control systems.

I look forward to learning the details of the administration's proposal. Obviously, legislative confirmation of EPA's authority to extend the present compliance dates for individual sources under the Clean Air Act would be required. The Subcommittee on Environmental Pollution of the Committee on Public Works will examine carefully the proposed criteria under which EPA would be authorized to extend compliance schedules during hearings on the Clean Air Act which will begin early next year.

In my view, the major significance of the administration agreement is that it will help abate pressure to abandon present clear air strategies which has created uncertainty in the industry regarding the future of those strategies—an uncertainty which has had major adverse effects on the development of new coal production capacity. Investment in new mines, particularly underground mines, requires assured long-term markets. A clear knowledge of what the rules are and a full commitment to those rules will encourage the dvelopment of coal production capacity—and, thus, make a major contribution to the solution of long-term energy problems.

While there has been no official announcement of the agreement, a Wall Street Journal article of November 29 reports the matter in detail, and I ask unanimous consent that it be printed in the RECORD.

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

FORD STIFFENS POLICY ON UTILITY POLLUTION, SIDES WITH EPA ON REQUIRING SCRUBBERS

WASHINGTON.—The Ford administration has decided to toughen its approach to get utilities to curb sulphur-oxide emissions from power plants.

The new approach involves backing away from legislative proposals the Nixon administration made last spring to relax clean-air laws and to allow utilities to use tall smokestakes or to close plants temporarily instead of installing costly "stack-gas scrubbers," antipollution equipment that the Environmental Protection Agency currently requires.

One catch is that the timetable for scrubber installation would be longer than the EPA initially had wanted. But Russel Train, EPA administrator, said he considers the new proposals acceptable and called the change in position "a very real breakthrough."

In another development, the EPA adopted previously proposed rules that would let most planned energy development in the country proceed by allowing states to permit limited air pollution in areas where the air quality is currently high. The rules have been attacked by environmental groups, and after the EPA announcement, the Sierra Club quickly challenged them in court.

AN EPA VICTORY

The change in the administration position on scrubber installation is a victory for the EPA, which had publicly opposed the legislation proposed by the White House. The bill hasn't moved in Congress. Mr. Train told a press conference that the White House Energy Resources Council, chaired by Interior Secretary Rogers Morton, had agreed in principle at a recent meeting to resolve the scrubber dispute.

The administration's top energy officials, who are represented on the council, have decided to side with the EPA's view that scrubbers eventually should be installed, Mr. Train said. He said that the agreement was in "very broad outline" and that he expected last spring's proposed legislation to be replaced by a measure allowing the EPA gradually to extend the timetable for installing the equipment until a final deadline of 1985.

Mr. Train said most plants would install the equipment before then, but others would be allowed to use "intermittent controls," such as tall smokestacks, to comply with clean-air laws until they begin using the scrubber. Initially the EPA has wanted the industry to finish installing the equipment by 1980.

Some utilities have been installing scrubbers, but many companies claim the technology still is unproven. Until now, administration energy officials have sided with the industry and against the EPA.

COMPANY SEES MAJOR PROBLEMS

The most vocal critic has been American Electric Power Co., a New York-based utility-holding company. It has been running advertisements in newspapers all year charging there are major problems with the scrubber equipment and with disposal of solid wastes resulting from the pollutant removal. The EPA has openly and vigorously disputed the American Electric Power claims.

Mr. Train said extension of the compliance deadline for reducing sulphur-oxide emissions would have to be authorized by Congress, and he expects the Ford administration to propose the necessary legislation next year. The deadline called for in the Clean Air Act is 1977, but the EPA previously has said it wants to change that date. The target has been found unrealistic because scrubber equipment couldn't physically be installed at all power plants by then.

The other rules that the EPA adopted are meant to prevent "significant deterioration" of air quality in areas where air is already cleaner than required by federal standards. The rules would leave much of the task to individual states and allow them to designate areas within their borders according to three air-quality classes outlined by the EPA.

The rules stem from a 1972 federal court ruling, affirmed by the Supreme Court, in a suit filed by the Sierra Club against the EPA.

SIERRA CLUB ASKS REVIEW

Shortly after the rules were adopted Wednesday, the club asked the court of appeals here to review whether the rules comply with the earlier court order. A Sierra Club lawyer said the group will argue they don't comply.

At his press conference, Mr. Train defended the regulations and said they weren't meant as an endorsement of rapid energy development. "This isn't any invitation to pollute," he said. EPA officials expect that, if the rules are challenged in court. Congress will move to clarify the law on the matter.

Mr. Train said the law is vague on air-quality deterioration in clean-air regions and added: "I am hopeful that guidance will be reflected in Clean Air Act amendments that are likely to be enacted next year."

One change from the EPA's original proposal is that the EPA will resolve disputes between states on designations of air-quality areas that would affect other states. The original proposal didn't have such a provision.

EPA TO HOLD HEARINGS

On another matter, the EPA confirmed it would hold hearings early next year on the compatibility of better gasoline mileage and tighter auto-emission controls. Auto makers plan to seek hearings on whether the EPA should allow a one-year extension of the pollution-control standards due for 1977-model cars. Current law allows them to make such a request after Jan. 1, and they have said they will.

But the auto-company officials also have been saying they can't achieve President Ford's goal of 40% mileage improvement by 1980 unless Congress leaves emission ceilings at their present levels for five years. Mr. Train said the hearings will explore that claim as well as the possibility of extending the emission standards for one year. But he emphasized that only Congress could grant a five-year extension.

Mr. Train said he has an "open mind," but he asserted the "auto industry has always said that every standard that was proposed to make new cars cleaner and safer was impossible or too costly to achieve. In most cases, the industry subsequently went to work and did a pretty good job of meeting the new standards."

SIGNPOSTS TO DISASTER

Mr. BROCK. Mr. President, everyone knows that the economy of our Nation, and of the entire world, is in perilous straits. I am afraid that we do not realize just how serious the situation is and that we in Congress are not providing leadership that our country so desperately requires. I fear we are talking too much and doing too little, and all the while the Nation suffers the ravages of inflation and unemployment. We must not forget the Great Depression. We must learn from it. We must not pretend that the threat cannot arise again. Mr. C. C. Sulzberger has written an excellent article on this threat to democratic governments the world over. In the hope of stimulating positive action on the part of Congress, I ask unanimous consent that this article be printed in the RECORD and that we take its message very seriously.

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

SIGNPOSTS TO DISASTER

(By C. L. Sulzberger)

PARIS.—Forty-five years ago the Great Depression began with a crash on Wall Street and by the time it staggered to its halt the whole world had been shaken out of fat-dripping illusions. Now we appear to be on or over the brink of a similar collapse although—as in 1929—few leaders are willing to admit it and even the prissy word "recession" is disliked.

After the 1929 stock exchange break, respected Pollyannas like Herbert Hoover and J. P. Morgan for months saw silver linings obscuring every cloud. We now seem in a similar period: Leadership silence with respect to the facts is almost thunderous. From Tokyo to Washington via Paris and London one hears again those comforting coos from political pigeon cotes that nothing drastic need be done. And, indeed, securities regulations and social insurance have eased the shock.

Nevertheless, let us regard. France, traditionally Europe's most prosperous land, has more unemployment than any time since World War II and work stoppages ripple across the country. England is flat broke, floundering economically and caught in an endless Irish conflict, last battle of the seventeenth-century religious wars.

Italy is mired in chaos. Portugal hovers on the edge of tumult and Spain may soon approach a similar border when Generalissimo Franco dies. Japan's dynamism shows signs of dissolving like a wet noodle; South Asia is disintegrating; much of Africa starves; and the richest oil sheiks have accumulated so much money that they don't even know how to budget it.

As for the United States, a sommolent acceptance of platitudes has succeeded the

hope for vigorous leadership that followed President Nixon's resignation. Amidst this placidity we seem to be shedding the old-fashioned rich man can indeed enter heaven. Nelson Rockefeller can't even become Vice President.

No capitalistic society can escape unscathed from the cumulative effects of rampant inflation and industrial stagnation. It is small comfort to acknowledge that the poor underdeveloped nations are in even worse shape. And it is considered axiomatic by many so-called experts that no democracy can for long survive an inflation rate exceeding 20 per cent.

Look at today's roster. Chile, with an annual rate of 74.5 per cent, is not, of course, a democracy and inflation was already well over 20 per cent when Salvador Allende's regime collapsed. South Vietnam, never democratic, such a system being unfamiliar to East Asia's mainland, is at 68 per cent and President Thieu totters.

Iceland, a nobly free little land, has attained 43.8 per cent; Pakistan is at 32.1; Argentina at 30.2; Brazil at 28.7, end Ecuador at 28.4. India is at 28 per cent, Portugal and Turkey are rivals at 25.9 and Japan is at 25.2. Greece's position is probably equivalent to Turkey's.

Reviewing the list politically, Chile, South Vietnam and Brazil are not democracies and Pakistan, India, Portugal and maybe Turkey could easily be diverted from that course. What ugly shadows lie in wait elsewhere? Even in staid, law-abiding old England there is a small but growing off-stage chorus of voices calling for quasi-fascist law-and-order organizations.

Today's great inflation stems from many things—not just oil prices. Recent years have accustomed public opinion to rising desires for comfort that can no longer be financed. The world is filled with gobs of fake money—or credit—equivalent on an exaggerated scale to margin-buying of securities two generations ago: Special Drawing Rights, Eurocurrencies, various theoretical worths of gold. There is no valid international monetary system and excessive public expenditure is commonplace.

Vietnam military costs accelerated economic weaknesses in the United States, which cleverly exported its inflation abroad (as de Gaulle, no economist himself, brilliantly perceived). And although enough food is grown to feed the world, no one has yet devised a system to distribute it. Atop all this the Arabs quadrupled oil prices—and the pit fell in.

The only way Democratic chiefs can extricate their nations from this mess is by firm, imaginative, audacious leadership: high taxes on gasoline and big cars, encouragement of energy saving on such things as air-conditioning, rigid penalties for violations, shifts to new energy sources.

We are not getting that kind of talk anywhere: only cosmetics and blabbermouthing. Let us not forget that the Great Depression of the thirties produced in Roosevelt's New Deal radical social reform that saved American democracy—and also Hitler's Nazism which wrecked the world.

CONCLUSION OF ROUTINE MORNING BUSINESS

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

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR THE ATOMIC ENERGY COMMISSION, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 4033, which the clerk will state by title.

The legislative clerk read as follows:

S. 4033, a bill to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Joint Committee on Atomic Energy with an amendment on page 1, in line 5, strike out "$2,606,233,000" and insert in lieu thereof "$2,613,733,000", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(a) of Public Law 93-276 is hereby amended by striking therefrom the figure "$2,551,533,000" and substituting the figure "$2,613,733,000".

SEC. 2. Section 101(b) of Public Law 93-276 is hereby amended by striking from subsection (11) capital equipment the figure "$208,850,000" and substituting the figure "$227,150,000".

The ACTING PRESIDENT pro tempore. The time for debate on this bill shall be limited to 1 hour, to be equally divided and controlled by the majority and minority leaders or their designees, with 30 minutes on any amendment, except for the amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY), on which there shall be 1 hour debate, and with 20 minutes on any debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader I yield time on this side to Mr. PASTORE.

Mr. GRIFFIN. Mr. President, we shall hold for the leadership.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. PASTORE. What is the pending business?

The ACTING PRESIDENT pro tempore. The business before the Senate is S. 4033, which has been laid before the Senate.

Mr. PASTORE. Mr. President, this bill provides for authorization for supplemental appropriations of $80,500,000 for the Atomic Energy Commission for fiscal year 1975. The additional funds would be for increases in two AEC program areas, nuclear weapons testing and safeguards.

Of the additional authorization, $57,500,000 is for a modified weapons testing program which would be implemented to complete certain significant tests before the effective date of a Threshold Test Ban Treaty which would limit tests to yields less than 150 kilotons and which now is projected to enter into force on March 31, 1976. The modified program recognizes the impending limitation and moves up some of the planned tests exceeding 150 kilotons in order that they may be consummated prior to the effective date of the 150 kiloton threshold treaty. The test program is a minimal, pared-down program which provides for the smallest total number of tests in any year since the United States began underground testing exclusively. The AEC and DOD have testified, and the State Department is also on record, that these tests are of great importance to the Nation's strategic defense posture.

The tests that would be carried out are the most essential components of several previously planned series. These tests are for weapons systems which the Congress has agreed to develop. Only the phasing of the tests has been changed to coincide with the period available for the conduct of tests over 150 kilotons. No new tests have been added, and in fact a number of lower yield tests have been eliminated to compensate partially for the higher tests. The committee added $2,500,000 to the AEC request for fundamental research because of concern that proposed reductions in fundamental research and development efforts to provide funding for the higher yield test program went too deep into essential programs.

It has been asserted that to increase funding now for nuclear weapons testing is to frustrate the aims of the Threshold Test Ban Treaty, which is scheduled to go into force prior to March 31, 1976. I would say that this viewpoint is uninformed. Until, and if, the TTBT goes into effect, there is no limitation on the yield of a device to be tested. The Soviets recognize this provision and are acting accordingly. Since 1972, the Soviets have tested six devices with yields greater than a megaton. On August 29, 1974, there was a 1- to 3-megaton test. As recently as November 4, 1974, there was a 3- to 4-megaton test. I have heard no criticism of these tests. The last U.S. test of such proportions was in 1971 for the ABM system.

The question of whether or not the test program provided for in this supplemental authorization is in consonance with the agreements reached by President Ford with the Soviets has also been raised. The recent agreement negotiated by President Ford is concerned with the quantitative aspects of the strategic nuclear stockpile—the total number of strategic delivery vehicles, and the total number of MIRV'd delivery vehicles. Nowhere in the agreement are the qualitative aspects of nuclear weaponry restricted or even considered. It is impossible to know what is under a nose cone, unless you lift the lid and peek. This hardly seems likely. The United States must continue weapons R. & D. and this must include the necessary weapons tests before March 21, 1976, to prepare for stockpile entry those weapons under development for several years before the June 1974 agreement which require tests of yields greater than 150 kilotons.

The additional $23 million for the safeguards program will provide for up-

grading of the protection of our nuclear weapons and of civilian nuclear material from theft or diversion. A major part of these funds would be for the hiring of 175 AEC civilian guards and for the procurement of special equipment for safeguards purposes.

In the safeguards area, the committee added funds of $5 million, at the urging of Senators JACKSON and RIBICOFF. These additional funds will provide for important studies which it is hoped will lead to better understanding of the extent of protection that will be required for nuclear materials in the future, as the amount of such materials and the number of shipments involving them increase above the relatively low levels of today.

The supplemental appropriations bill has been reported out of conference. The AEC appropriations were reported in technical disagreement, partly because this authorizing legislation has not been enacted. I urge the Senate to enact this authorization now, so that these important appropriations can be approved and these efforts can go forward.

I shall be very happy to explain any parts of this bill to anyone who may be so interested.

Mr. President, the reason for this appropriation is not to expand our underground testing program one iota, but because of this threshold test ban treaty, which, of course, has been initialed by both parties—that is, the American Government and the Soviet Government—and has not yet been submitted to the Senate for reasons that we explored. First, we were curious why that had not taken place, but we were told later that apparently Mr. Kissinger had an agreement with Mr. Brezhnev to the effect that they would not submit the treaty until they had resolved Article III, which had to do with underground testing of peaceful uses of atomic energy, and that is the reason for it.

That is the reason for it. When that was determined, of course, we no longer insisted that Mr. Kissinger come before our committee, because we had a full explanation.

Mr. President, I understand that our distinguished colleague and friend from Massachusetts (Mr. KENNEDY) is opposed to the $57,500,000 for weapons development. He will make his own statement—I understand he has an amendment—and we will take it from that point on.

I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator.

Mr. President, I send an amendment to the desk for myself and Senators MUSKIE, MATHIAS, HUMPHREY, WILLIAMS, MONDALE, STEVENSON, HUGHES, MCGOVERN, and HASKELL, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. KENNEDY'S amendment is as follows:

On page 1, line 5, strike "$2,613,733,000" and insert in lieu thereof "$2,560,733,000".

On page 1, line 9, strike "$227,150,000" and insert in lieu thereof "$222,650,000".

On page 1, after line 9, add the following:

"Sec. 3. The increase of the sums authorized to be appropriated by this Act may be made available only for the purposes of the Safeguards Program with regard to safeguarding special nuclear material from diversion from its intended uses, and for research and development of safeguards techniques and related activities involved in handling nuclear material."

Mr. KENNEDY. Mr. President, the amendment we are proposing today deletes $57.5 million of the $80.5 million supplemental authorization for the Atomic Energy Commission proposed in this bill for an accelerated nuclear weapons testing program. It does not affect the $23 million authorization for the nuclear safeguards program.

The sponsors of this amendment support the additional authorization for the safeguards program designed to enhance the safety and security of the AEC, its facilities and stockpiles from sabotage, diversion, and theft.

We oppose, at least at this time, an accelerated nuclear weapons testing program.

I am sure I speak for the other proponents of this amendment in expressing our recognition of the strong record in arms control and the responsible position in the entire nuclear field of our colleague, the senior Senator from Rhode Island, Senator PASTORE.

However, we believe that developments since the original administration request for these funds have made the wisdom of an accelerated nuclear weapons testing program exceedingly doubtful. After carefully considering this matter, we believe the national security would be better served by deferring this matter until the next session of the Congress.

The reasons we oppose the acceleration of the weapons testing program are as follows:

First, the supplemental funds were requested by the administration in order to carry out high-yield tests and conduct advanced research on new weapons prior to the proposed March 1976 date when the Threshold Test Ban Treaty was to take effect.

But where is the treaty? It has not been submitted to the Senate, nor have we received any indication that the administration has any intention of submitting it for ratification in the near future. In fact, it is my understanding that negotiations on the matter of resolving differences over peaceful nuclear explosions have stalled and negotiations are not expected to resume until after the first of the year.

In addition, there are many Members who are not totally enthused regarding the threshold treaty itself. This November, 32 Members wrote President Ford questioning the 150 kiloton threshold and urging him to seek a more effective limitation on weapons testing. Without having the treaty before us, and with the existence of serious questions as to the timing of its submission and the likelihood of its ratification, I wonder whether we are putting the cart before the horse by approving a $57.5 million speed-up in the nuclear testing program now.

Second, there is no question that one of the highest items on our list of foreign policy priorities is the extension of the Nuclear Non-Proliferation Treaty. The Senator from Rhode Island has been perhaps the Senate's leading advocate of efforts to prevent the spread of nuclear weapons. It was his resolution, Senate Resolution 179, which helped propel the administration of President Johnson toward the achievement of that treaty.

I share his view of the importance of this treaty. Yet, in March 1975, just when the accelerated testing program proposed in this bill presumably would be in full gear, the Review Conference for the Nuclear Non-Proliferation Treaty will begin.

If the United States, with thousands of good strategic nuclear warheads in our stockpile, is engaged in an accelerated series of nuclear weapons tests, at the very instant we are asking dozens of other nations to forego all nuclear weaponry, our credibility will be severely undercut.

We might well be risking a major policy objective, the viability of the NPT, for minor refinements in our nuclear stockpile.

Our amendment will not affect the $152 million testing program authorized already, but it would remove the red flag that an accelerated, high yield program, surely represents.

I would like to emphasize the level of magnitude of our stockpile of warheads at this time by quoting Senator SYMINGTON'S statement during the hearing of the Joint Atomic Energy Committee on this bill. He quoted from recent testimony by Adm. Gene La Rocque:

> The United States currently has enough strategic nuclear weapons to hit every Soviet city over 100,000 people with 36 separate nuclear weapons.

Senator SYMINGTON also noted that together "our combined strategic and tactical nuclear stockpile contains approximately 8,000 megatons or equivalent to 615,385 Hiroshima-type bombs. In view of this incredible stockpile of weapons on both sides, what can be the purpose of the United States continuing to develop new high-yield nuclear weapons?"

I share the view of the distinguished Senator from Missouri, but more important, I believe that other nations, who we are asking to forego all nuclear weaponry in the name of arms control, might look with skepticism at our assertions when they know of our current strategic nuclear strength and then see us engaged in a 25-percent acceleration of our nuclear testing program.

Third, the administration made its requests prior to the Vladivostok SALT II accord. The committee also acted prior to that time. We had no way of knowing that a 10-year quantitative limit on offensive weapons systems would be tentatively agreed to.

Now, we have the very forceful expressions of optimism from the President and the Secretary of State on the breakthrough achieved at Vladivostok. Until the Senate has the opportunity to analyze the foreign policy implications of this agreement in the forthcoming weeks,

I believe it would be premature to go forward with this accelerated testing.

I would add that when the President believes the economy is in critical disarray, when he submits proposals to cut the budget by $4.6 billion, and when those proposals include charging more for food stamps to the poor and for hospital care for the elderly, then I doubt the wisdom of going forward with this questionable $57.5 million weapons testing program.

Mr. PASTORE. Mr. President, will the Senator yield? I do not wish to interrupt him unless he wishes. Would the Senator prefer to complete his statement first?

Mr. KENNEDY. I have just about 30 seconds more.

Mr. PASTORE. Very well.

Mr. KENNEDY. For those who believe this is an insignificant sum, I would note that it would pay for some 3,000 low-cost houses or the annual salaries of some 6,500 elementary school teachers.

Mr. President, for all of these reasons, I urge the adoption of this amendment.

Mr. President, I also ask unanimous consent to have printed a letter or endorsement of our amendment from Adrian Fisher, now dean of Georgetown Law School and formerly deputy director of the Arms Control and Disarmament Agency and Herbert Scoville, former deputy director of the CIA and former Assistant Director of ACDA.

I yield to the Senator from Rhode Island.

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

Mr. PASTORE. I yield.

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

DECEMBER 6, 1974.

Hon. EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: We should like to support your amendment to delete $57.5 million in supplemental funds for the AEC for the purpose of carrying out more high yield nuclear tests. The acceleration of nuclear testing to beat the March 31, 1976 deadline in the so called "Threshold" Treaty limiting nuclear tests would make a travesty of the pledge in Article I, Paragraph 2 of that Treaty, which says "each Party shall limit the number of its underground nuclear weapons tests to a minimum".

A major security policy of the United States has been to halt the further spread of nuclear weapons, and in signing the NPT we committed ourselves "to negotiate on effective measures relating to the cessation of the nuclear arms race at an early date" and reaffirmed our goal of "seeking to achieve the discontinuance of all test explosions for all time". To proceed with an accelerated test program in the aftermath of the Threshold Treaty, which has already called into question the U.S. and Soviet sincertity in their commitments to try to bring to halt nuclear tests would be the ultimate slap in the face of those nations we are asking to give up the option to acquire nuclear weapons. It could be the body blow that kills the already frail structure of the NPT.

Since we have only chosen to conduct two tests above 150KT in the past four years, it is hard to believe there can be any overriding priority to go into an accelerated high yield test program at this time in anticipation of the dubious Threshold Treaty. This Treaty has not yet even been submitted to the Senate for ratification, and the negotiations on "peaceful nuclear explosive" tests, a key element associated with that agreement are in such difficulties that it is quite possible that a Threshold Treaty may never come into being.

Furthermore, President Ford and Secretary General Brezhnev have just concluded an agreement which Secretary Kissinger claimed placed a "cap" on the arms race. This is not the moment to speed up the qualitative aspects of that race.

Instead of spending more millions for nuclear testing, we should be concentrating our efforts on improving the safeguards established by the NPT and reducing the risks that nuclear weapons will fall into unauthorized hands.

Sincerely yours,

HERBERT SCOVILLE, Jr.,
Secretary,
Federation of American Scientists.
ADRIAN S. FISHER,
Dean,
Georgetown University Law School.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, with hearings scheduled on auto fuel economy, and the Committee on Agriculture and Forestry, which has scheduled hearings on U.S. food supplies and foreign aid, be permitted to meet during the session of the Senate today.

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

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR THE ATOMIC ENERGY COMMISSION, 1975

The Senate continued with the consideration of the bill (S. 4033) to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Act of 1954, as amended, and for other purposes.

Mr. PASTORE. Mr. President, I share much of the concern of the distinguished Senator from Massachusetts as he has expressed it here today in sponsoring this amendment. I have become somewhat weary, not to use a stronger word, of this Madison Avenue display that every time the President goes to either Moscow or Peking, they come back with a signed paper that is dependent upon a lot of its and buts.

So, when we were called down to the White House to be briefed by the President of the United States not too long ago, together with the leadership, and we were told about this tremendous breakthrough—the agreement that President Ford had with Mr. Brezhnev—I raised a question. I said: "Mr. President, now that you have created all this euphoria about this great breakthrough, what am I going to say to Mr. Kennedy and the rest of the sponsors of the amendment to delete this money for underground nuclear weapon testing over the 150 kiloton range?"

The President said: "It is absolutely necessary." I said: "Why?"

He said: "Well, because all that we engaged in was quantitative matters concerning nuclear weapons and not qualitative matters and now what we have got to do, in order to catch up with the Russians, is conduct these underground tests."

So, naturally, of course, that is why Pastore is standing on the floor here today, carrying out the expression of the President of the United States that it is absolutely necessary that if his agreement with Brezhnev means anything at all, we have got to have this underground testing.

I say to the Senator from Massachusetts (Mr. KENNEDY) that was the answer that was given to me, and that is the reason why I am here today.

I asked the same questions: If we have resolved this, why then do we have to do anything else; and the answer was, "Yes, but we are not quite there."

Now, this is the story. The Russians already have more than 2,400 launchers and we do not; we are limited to 1,320 MIRVed weapons, and the Russians are going hell bent for election to achieve it.

Now we are saying, "But their missiles and their warheads have a greater yield than ours; so now we have to do something about underground testing in order to get up to that yield."

Here we are, we are always catching up. All I am saying here today is stop giving us Madison Avenue treatment, telling us what a tremendous breakthrough we have achieved, and unless Congress does this, unless Congress does that, unless Congress does this and that, then we are in a bad way.

That is why we are here today.

I want to say to my distinguished colleague from Massachusetts that this matter has been debated pro and con when we went before the conference on the appropriation bill. It was decided to take the $57.5 million, reduce it to $22.25 million. If the Senator would permit, I would like to make that as a substitute to his amendment, not in derogation at all of the spirit and the motivation of my distinguished colleague from Massachusetts, but merely to bring the authorization in consonance with the appropriation.

I send to the desk this amendment to be considered en bloc by unanimous consent, and I ask unanimous consent that it be considered en bloc as a substitute.

The ACTING PRESIDENT pro tempore. Does the Senator make a unanimous-consent request?

Mr. PASTORE. Yes, I just did.

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

The clerk will state the substitute.

The legislative clerk read as follows:

On page 1, line 5, strike "$2,613,733,000" and insert in lieu thereof "$2,580,733,000",

On page 1, line 9, strike $227,150,000" and insert in lieu thereof $224,900,000".

On page 1, after line 9, add the following:

"Sec. 3. (a) From the increase of the sums authorized to be appropriated by this Act $23,000,000 shall be allotted to, and made available only for the Safeguards Program, with regard to the safeguarding of special nuclear materials from diversion from its intended uses, and for research and development of safeguards techniques and related activities involved in handling nuclear material.

Mr. PASTORE. I wish my colleague would agree to it.

Mr. KENNEDY. Before making a comment on the substitute, could I, just in terms of time, yield myself time on the previous amendment, if that needs to be done?

Mr. PASTORE. I will give the Senator all the time he needs. We have time on the bill.

Mr. KENNEDY. The Senator from Rhode Island has related his conversations that he had with the President of the United States and the President's response to the Senator from Rhode Island when he put to the President this particular question.

The problem is that the American people and the rest of the Senate, were not at that particular meeting. But what the American people understand are the statements that were made by the President of the United States and the Secretary of State with regard to the threshold treaty that was agreed to in Moscow, and also the Vladivostok agreement of a few weeks ago.

All that the proponents of this amendment have attempted to do and say is, we ought to have the threshold treaty before us before we act and we should know the full nature of the Vladivostok agreement so that we can find out whether it is going to be meaningful in getting some control in the arms area or whether it is going to be, as the Senator from Rhode Island used the expression, a "Madison Avenue approach."

Why can we not wait before we move ahead to accelerate testing at least until we, as the Senate, and we as a country, are positive that we will benefit from the treats that has been agreed to in Moscow, and also have the benefits of the protocols agreed to in Vladivostok?

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. I will after concluding. Either something meaningful was agreed to then or it was not. And if it was, we should be entitled to know it, and we ought to have the benefit of full examination of their treaties.

As I mentioned during my statement, all the proponents of this amendment are attempting to do is just say, "Let us wait until next year, wait until we have the administration's agreements before us."

Not everyone of us can have the access to the President of the United States that my good friend, the Senator from Rhode Island, has in being able to go down and say, "What was really agreed to there?"

Mr. PASTORE. But I have never slept in the White House.

Mr. KENNEDY. This was not in the White House. This was——

Mr. PASTORE. That is right. I never slept there. I think the Senator from Massachusetts has.

Mr. KENNEDY. Those were other days.

Mr. President, knowing of the very great concern that the Senator from Rhode Island has demonstrated time and again about the proliferation of nuclear weaponry, understanding the importance of the NPT which will be reviewed next spring at a time when it appears we are going to go into an accelerated program, is it not appropriate to defer this request? Also, knowing that we in Congress and the American people have not had the benefit of seeing the actual agreement of Vladivostok, nor of having the threshold treaty before us, is it not reasonable for us to ask for a delay? When the President says that we have placed a cap on the strategic arms race, I would hope, at least, to see a halt to speculative testing of warheads for weapons systems not yet approved by the Congress and a delay of some of the accelerated testing which this increased appropriation would provide?

As the Senator has pointed out, already $152 million has been authorized and approved for testing and it proves that this is just not a continuation of what was going into effect. This is in addition to what the administration had initially asked for prior to the time that the agreement in Moscow was signed and was allegedly based on that treaty; yet it still has not been submitted for ratification.

I wanted the Senator to understand also that many of us, since this request had been made prior to the Vladivostok agreement, believe that it might make some sense for us to defer taking action until we get the full information on that agreement. This really has been the basis of our proposition. I know that the Senator has given consideration to these arguments.

I want to ask, if I may, some clarification of the Senator from Rhode Island with respect to this substitute, what this would really mean in terms of any accelerated testing. Could he enlighten us as to whether he feels that this reduction would put a halt to any additional speculative testing that might involve programs not yet authorized by the Congress at a time when the initial requests were made by the administration?

Mr. PASTORE. This supplemental request does not enlarge the underground testing program that was contemplated by the Defense Department and by the Atomic Energy Commission.

As a matter of fact, because of this curtailment from $57.5 million down to $22.25 million, certain other smaller tests will have to be placed on the back burner in order to allow and to give priority to some of these other tests.

Now, which are they? They are for the perfection of the warhead on Minuteman III, and also the B–1. Insofar as the Trident is concerned, that, I think, is being somewhat delayed because there has been a stretchout on that program.

Now, the speech made by the Senator from Massachusetts was the speech I made at the hearing. I said everything the Senator just said. He must have been listening.

Mr. KENNEDY. I always listen.

Mr. PASTORE. I said everything that the Senator just said. I said, "Why do we have to do this now? Why can we not wait until next year?"

Do you know what they said? "We are boxed in by the date, and we would have to renegotiate an agreement."

It takes time to hold these tests. That is the reason why the deadline is March 31, 1976. Unless they get started now to dig the holes, to do what they have got to do, they cannot conduct tests within the framework of the time. Then they have to go back and talk to Brezhnev again. In the meantime, there may be some other Russian out there in the Kremlin who might be the boss, and they are a little afraid this might tip it over a little bit. That is the answer you get. That is the answer we get, and I share the concern of my colleague from Massachusetts.

But the point here that I want to make is that this is not an enlargement, this is merely a shuffling around in order to give priority so that they can conduct the larger tests before the deadline—that is the only reason for it.

Mr. BAKER. Will the Senator yield?

Mr. PASTORE. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Just a final question on this point.

Could the Senator at least give assurances there would not be the development of new warheads for unapproved weapons systems with this additional kind of a——

Mr. PASTORE. The testing only has to do with the projects that have already been approved by the Congress.

The Congress approved the B–1 system, the Congress approved the Trident system, the Congress approved Minuteman III, and it all has to do with these weapons systems.

What this has to do is with improvement as to yield and weight in order to come within comparability with the Russian power.

Mr. KENNEDY. But the Senator then understands none of this will be used for any new kinds of missile launchers or new kinds of weapons systems that have not been approved by Congress previously?

Mr. PASTORE. Well, we do not approve the warheads.

Mr. KENNEDY. Well, the weapon systems?

Mr. PASTORE. That has got to do with what is already approved insofar as launches or delivery systems are concerned whether a plane, submarine, or missile whether it is the B–1 or the Trident or the Minuteman III.

Mr. President, I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from West Virginia for a unanimous-consent request.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may meet during the Senate session today.

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

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR THE ATOMIC ENERGY COMMISSION, 1975

The Senate continued with the consideration of the bill (S. 4033) to amend

Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

Mr. BAKER. Mr. President, I rise to support the substitute amendment offered by the Senator from Rhode Island, not because I am enthusiastic about the prospect of reducing that request, but I think it is a good way out of this current debate, I think it is too important to debate and have an extensive conflict on the floor of the Senate at this time.

I think we can do what needs be done with the funds to be provided under the amendment offered by the distinguished Senator from Rhode Island. I think we can go forward with the important business at hand.

I would like at this point to say to our colleagues in the Senate that we are on the brink, I believe, of significant developments in the foreign relations of the United States.

I believe we have made extraordinary progress in reducing the tensions in a nuclear world. I believe we ought to celebrate and cheer the efforts that have been made by former President Nixon, by President Ford, to bring about some sort of limitations on strategic arms.

I look forward with gusto to the day when we can have a deescalation of the arms race and set about the business of disarming our nuclear arsenals, but that day is not here yet.

We have, as the President says, put a cap on the arms race. It is not as low as some people would like, but it is there, in place, it is finite and determined, but, Mr. President, with that successful accomplishment there arises a concomitant risk if we do not fully avail ourselves as a nation of the full defense potential that is permitted under that bilateral agreement with the Russians. It seems that we are sending a signal to all the world that the United States is not willing to provide for her own agreed maximum defense. Then détente, instead of being a wave of peaceful future, will be an invitation to disaster.

So, Mr. President, I think it is doubly important we go forward with this testing within the framework of SALT, that we acknowledge the great progress and significant accomplishment made by President Ford and his predecessor and that we pass the substitute amendment.

Mr. PASTORE. I merely state to my distinguished colleague from Tennessee—and I agree with what he said, naturally—I am very much interested in arms control.

The only thing that bothers me is that sometimes we try to oversell these accomplishments to the American people and I think we ought to give them all the facts. I think we should have told the American people that this agreement entails a little bit of sacrifice, a little bit more money, a little bit more testing, so that we all would have understood it. It would have made my job much easier, and that is all I am saying.

Mr. BAKER. Mr. President, I could not agree more with the Senator from Rhode Island that it will cost more money, and we would be derelict in our responsibility to the country if we did not acknowledge that and provide for it. This bill does that and I support it.

Mr. PASTORE. I yield back my time on my substitute.

Mr. KENNEDY. Mr. President, finally, I am going to support the substitute of the Senator from Rhode Island.

I think the Senator has provided us with some assurance on these matters which were of very considerable concern, warhead developments that I think could very well have been a dangerous precedent, including the possibility of testing for various unapproved systems. With the assurance that he has given that these resources will be expended along the line he has mentioned here, I think that we have made a step forward.

It is not as much of a reduction as I would like to have seen. I think we would have been better off if we had deferred the entire amount until next year, but I think this is the best we could hope to achieve, and I want to indicate that I am going to support this substitute. It provides for a $35.25 reduction in the $57.50 million originally approved by the committee and thus substantially decreases the level of acceleration in the proposed testing program.

I express my appreciation to the Senator from Rhode Island for giving us the benefit of his judgment on these matters.

Mr. PASTORE. I, too, reciprocate by thanking my colleague for his sense of understanding and, I daresay, reasonable compromise.

The ACTING PRESIDENT pro tempore. Does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. I yield back my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to Mr. PASTORE's substitute amendment to Mr. KENNEDY's amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. Do the Senators yield back their time?

Mr. PASTORE. I yield back my time.

Mr. MUSKIE. Mr. President, I join in supporting the amendment of the senior Senator from Massachusetts (Mr. KENNEDY) to delete the $57.5 million in the AEC supplemental authorization bill designed to permit an acceleration of nuclear weapons testing.

I support the inclusion in the bill of $23 million to improve the transportation security of nuclear materials. Safeguarding such materials from diversion from their intended uses appears warranted and I intend to support that part of the pending legislation. I do, however, have serious doubts about the wisdom of our authorization at this time a large amount of new money for a stepped-up nuclear testing program.

Mr. President, the $57.5 million supplemental authorization request for accelerated nuclear testing is directly tied to the Threshold Test Ban Treaty. By that agreement, which was signed in Moscow on July 3, 1974, the United States and the Soviet Union agreed to end testing above the 150 kiloton level after March 31, 1976. On September 4 of this year, the Atomic Energy Commission requested new funds for high yield testing, testifying before the Joint Committee on Atomic Energy that certain revisions were necessary in its final year 1975 test program as a result of the threshold test ban accord.

As yet, the Threshold Test Ban Agreement has not been submitted to the Senate for ratification. And it now appears—due to differences between us end the Soviets concerning peaceful nuclear explosions—that the agreement may never be submitted. If there is along delay in submitting the Threshold Treaty, or if there is not treaty at all, then presumably there is no need for an immediate and expensive acceleration of our weapons testing program.

I believe that approval of these supplemental funds should await the submission of the Threshold Test Ban Treaty to Congress. Or in the absence of this, the Executive should come before Congress and make a case for an accelerated testing program not premised on the Threshold Test Ban Accord. The Executive has not done this. Nor has it testified to my satisfaction about the foreign policy implications of going ahead with an accelerated testing program at this time.

I wonder, for example, how the Soviets are likely to interpret such a speedup of our testing program, given that the Threshold Test Ban Treaty contains a pledge by both the United States and the Soviet Union "to limit the number of its underground tests to a minimum" and continue to try for "a solution to the problem of the cessation of all underground nuclear weapon tests." Would the Soviets interpret the "minimum" testing provision in the same lax manner that we seem to interpret it, and accelerate their own testing program? I do not have an answer to this question. But I would be most interested to hear Secretary Kissinger's opinion about it before approving these funds for a new series of tests.

I also wonder what effect the accelerated testing program would have on the Non-Proliferation Treaty Review Conference scheduled to begin this spring in Geneva? In the postwar period, a major foreign policy goal of this country has been to prevent the spread of nuclear weapons. An accelerated program at this time might well undermine this goal and doom the review conference.

Nations like Brazil, Argentina, Pakistan, and others might then be gravely tempted to follow India's lead along the nuclear route. Are any of the newly planned weapons tests of such overriding security importance to warrant the risk of dooming the NPT review conference and encouraging the further proliferation of nuclear weapons? I doubt it, especially since the AEC has seen fit to conduct only two tests in the last 4 years above the 150-kiloton level, one of these being a test of the Spartan warhead now no longer needed as a result of the ABM Treaty of 1972.

Finally, I wonder how this testing program relates to the recently concluded Vladivostok accords. The preliminary

agreement at Vladivostok establishes for the first time limits on MIRV'd missiles processed by the United States and the Soviet Union. This limitation will undoubtedly lead to an extensive reevaluation of our strategic weapons program.

Does it make sense to go ahead at this time with an expensive crash program for testing nuclear devices when our strategic needs may change once a reevaluation of our strategic arsenal has taken place? It seems to me that the wisdom of going ahead with an accelerated testing program should be analyzed fully in light of the Vladivostok agreement, an agreement concluded after the AEC supplemental request was submitted.

Mr. President, in both the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty, the United States and the Soviet Union promised to try to achieve an end to all nuclear testing. As chairman of the Arms Control Subcommittee, I have held hearings on the prospects for a comprehensive test ban treaty each year for the past 3 years. On each occasion, both administration and outside witnesses have testified in support of a comprehensive test ban.

Thirty-seven Senators, including the distinguished sponsor of this amendment and myself, are presently cosponsors of a resolution urging the President to begin negotiations to conclude a comprehensive test ban treaty. In recent months, the Soviet Government has announced its support for ending all nuclear tests. All the momentum seems to be in the direction of stopping nuclear weapons testing rather than speeding it up. And I think we should think very carefully before taking any step likely to have the effect of slowing down—or perhaps reversing—that momentum.

So, Mr. President, I favor deleting the $57.5 million in this bill for accelerated nuclear tests. I believe we should defer consideration of the proposed authorization until early in the next session. By that time, the Executive will have had the opportunity to address itself to some of the concerns I have raised and some of the larger issues raised by this authorization request.

Mr. HUMPHREY. Mr. President, I support the compromise reached today on the amount authorized for accelerated nuclear testing. Reduction of the supplemental authorization from $57.5 million to $22.25 million will continue the progress necessary to our national security, but will curtail expenditures which might have proved needless. The Senator from Rhode Island and the Senator from Massachusetts, in particular, deserve credit for their efforts to achieve this compromise solution.

The proposed treaty limiting underground nuclear tests signed in Moscow on July 3, and understandings reached in Vladivostok late last month, make it very important that we carefully weigh all decisions on our future nuclear testing programs. I believe the compromise decision today will open the way for complete study and analysis of testing requirements.

The Atomic Energy Commission had asked the supplemental funds well before the Vladivostok agreement was reached. The Vladivostok agreement calls for a limitation of 1320 on missiles with multiple independently targeted warheads. The proposed treaty limiting underground nuclear tests would stop all tests above 150 kilotons after March 31, 1976. I do not believe we can properly decide to sharply accelerate the testing program before we have had an opportunity to assess these proposed new agreements.

The restraint the Senate has shown today could serve a very useful purpose if it leads the Soviet Union to show similar restraint. We do not know yet what kind of testing program the Soviet Union will conduct before the proposed effective date of the treaty, but we could hardly expect them to curb themselves if we will not curb ourselves.

The decision today could serve to reassure other nations of our sincerity in calling upon them to agree to nonproliferation of nuclear weapons. There is no doubt that the cause of nonproliferation has received some sharp jolts in recent months. Unless we and other concerned nations get the cause of nonproliferation back on course, I believe we may find any hopes of meaningful international control of nuclear weapons doomed.

This is a very critical point in the course of strategic nuclear development for the superpowers and for the rest of the world. Consequently, we should be willing to take every step that we can to show that the United States is willing to set the example.

The ACTING PRESIDENT pro tempore. Does the Senator from Rhode Island yield back his time?

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

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Massachusetts, as amended.

The amendment was agreed to.

Mr. STEVENSON. Mr. President, the Atomic Energy Commission's supplemental budget request contains funds for both underground nuclear weapons tests and improved nuclear safeguards. The common factor in these budget requests is the danger to international peace and stability posed by nuclear proliferation.

The implications of nuclear proliferation for world peace and stability are momentous. As the world's energy demands intensify, the spread of nuclear reactors accelerates. Any nation with a functioning nuclear reactor and reprocessing facility can produce plutonium for the manufacture of explosive devices. The weapons technology is readily available, and once plutonium is acquired, nuclear arms can be fabricated with relative ease. According to some estimates, by 1980 the world's nuclear reactors will have produced 300,000 to 450,000 kilograms of plutonium. As little as 5 or 6 kilograms is required to make a bomb with a destructive force of 10 to 20 kilotons of TNT, which was the size of the two bombs that devastated Nagasaki and Hiroshima.

The nuclear club, which recently counted only the United States, the Soviet Union, Great Britain, France, and China among its members, has already lost its exclusivity. The recent Indian explosion, despite its "peaceful" label, has set its door ajar. Argentina, Belgium, Canada, Italy, South Africa, Spain, and West Germany are either near or, perhaps like Israel, already inside. Australia, Austria, Brazil, Czechoslovakia, East Germany, Iran, Japan, Norway, Pakistan, Sweden, Switzerland, and Taiwan have it within their technological means to enter the club in the near future.

Under these circumstances, additional momentum toward a worldwide nuclear capability should be avoided until adequate safeguards can be developed. The self-interest of all nations is served by controlling the nuclear menace. The United States should be sending that message clearly and unequivocally throughout the world. But it is not.

We have resumed shipments of enriched uranium to India. We have also signed a feeble test ban agreement. The 150-kiloton threshold, the 1976 effective date, the total exemption of explosions for peaceful purposes and now the authorization of an additional $57.5 million for nuclear weapons testing all imply—even proclaim—that the United States and the Soviet Union are not very serious about stopping proliferation. If the superpowers are unwilling to exercise restraint, they cannot expect it from others.

Accordingly, I support the amendment introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY) to delete the authorization of additional funds for nuclear weapons testing.

As disturbed as I am by the $57.5 million in this bill for underground nuclear weapons testing, I am encouraged by the $23 million for the Atomic Energy Commission's safeguards program. As nuclear power spreads, the risks of accident, diversion to nonpeaceful purposes, and theft will be heightened. Determined terrorist groups, criminals, and other nongovernmental groups with access to nuclear materials would have unlimited capacity for blackmail.

Against these risks, existing safeguard systems in the major nuclear nations, including the United States—let alone politically unstable and developing nations—are not adequate. And existing safeguards are insufficiently adaptable to changing nuclear technologies such as the fast-breeder, heavy-water and high-temperature gas reactors.

Keeping up with the rapid spread of nuclear power and changing nuclear technology will require millions of dollars for safeguard research and development. The funds in this bill are the beginning of an accelerated safeguards program.

The Office of Management and Budget cut the AEC's supplemental safeguards request from $87.6 million to $18 million. OMB cut out entirely funds for research and development, plant protection, material control, and accountability and detection and response capability. Recognizing that the dangers of nuclear proliferation require an intense effort to contain them, the Senate has restored some, but not enough of these funds.

Since the AEC supplemental appropriations bill has already been passed, I have not offered an amendment to this authorization bill to restore funds for

nuclear safeguards. I do, however, expect that the fiscal year 1976 nuclear safeguards budget for the Arms Control and Disarmament Agency and the successor agencies to the AEC—the Nuclear Regulatory Commission and the Energy Research and Development Administration—will provide enough funds to assure a vigorous international safeguards effort. It would be a gross perversion of the world's priorities to suggest that a few million dollars is too high a price to pay for the maintenance of world order.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question now is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

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

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

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 16609, Calendar No. 1234, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 16609) to amend Public Law 93-276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, all after the enacting clause is struck, and substituted therefore is the text of S. 4033, as amended by the Senate.

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

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

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 16609) was passed.

Mr. PASTORE. Mr. President, I move that the vote be reconsidered.

Mr. ROBERT C. BYRD. I move to lay that on the table.

The motion to lay on the table was agreed to.

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1988, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert in lieu thereof:

That this Act may be cited as the "Emergency Marine Fisheries Protection Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) Valuable coastal and anadromous species of fish off the shores of the United States are in danger of being seriously depleted by excessive fishing effort.

(2) Stocks of coastal and anadromous species which inhabit waters of the 3-mile territorial sea and the existing 9-mile contiguous fishery zone of the United States are being depleted by foreign fishing efforts outside the 12-mile combined zone in which the United States presently possesses fishery management responsibility and authority.

(3) International negotiations have so far failed to result in effective international agreements on the conservation and management of threatened stocks of fish.

(4) There is danger that further depletion of these fishery resources will occur before an effective general international agreement on fishery jurisdiction can be negotiated, signed, ratified, and implemented, unless emergency action is taken pending such international agreement.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take emergency action to protect and conserve threatened stocks of fish by asserting fishery management responsibility and authority over fish in an extended contiguous fishery zone and over certain species of fish beyond such zone, until a general international agreement on fishery jurisdiction comes into force or is provisionally applied;

(2) to extend, as an emergency measure, the fishery management responsibility and authority of the United States to 200 nautical miles;

(3) to extend, as an emergency measure, fishery management responsibility and authority of the United States over anadromous species of fish which spawn in and fresh or estuarine waters of the United States; and

(4) to commit the Federal Government to act to prevent further depletion, to restore depleted stocks, and to protect and conserve fish to the full extent of such emergency responsibility and authority, and to provide for the identification, development, and implementation within 2 years of the date of enactment of this Act of the best practicable management system consistent with the interests of the Nation, the several States, and of other nations.

(c) POLICY.—It is further declared to the policy of the Congress in this Act—

(1) to maintain the existing territorial or other ocean jurisdiction of the United States without change, for all purposes other than the protection and conservation of certain species of fish and fish in certain ocean areas pending international agreement on fishery jurisdiction;

(2) to authorize no action, activity, or assertion of jurisdiction in contravention of any existing treaty or other international agreement to which the United States is party other than that necessary to further the purposes of this Act; and

(3) to authorize no impediment to or interference with the legal status of the high seas, except with respect to fishing to the extent necessary to implement this Act.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires—

(1) "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States but which migrate to ocean waters;

(2) "citizen of the United States" means any person who is a citizen of the United States by birth, by naturalization or other legal judgment, or, with respect to a corporation, partnership, or other association, by organization under and maintenance, after the date of enactment of this Act, in accordance with the laws of any State: *Provided*, That (A) the controlling interest therein is owned or beneficially vested in individuals who are citizens of the United States; and (B) the chairman, and not less than two-thirds of the members, of the board of directors or other governing board thereof are individuals who are citizens of the United States;

(3) "coastal species" means all species of fish which inhabit the waters off the coasts of the United States, other than highly migratory and anadromous species;

(4) "contiguous fishery zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(5) "controlling interest" means (A) 75 percent of the stock of any corporation, or other entity, is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States, (B) 75 percent of the voting power in such corporation, or such other entity, is vested in citizens of the United States, (C) no arrangement or contract exists providing that more than 25 percent of the voting power in such corporation, or such other entity, may be exercised in behalf of any person who is not a citizen of the United States, and (D) by no means whatsoever is control of any interest in such corporation, or such other entity, conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(6) "fish" includes mollusks, crustaceans, marine mammals (except the polar bear, walrus, and sea otter), and all other forms of marine animal and plant life (but not including birds), and the living resources of the Continental Shelf as defined in the Act of May 20, 1964 (78 Stat. 196);

(7) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any species of fish for any purpose, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(8) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or a type which is normally used for, fishing;

(9) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity, including, but not limited to, supply, storage, refrigeration, or processing;

(10) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including, but not limited to, tuna;

(11) "optimum sustainable yield" refers to the largest economic return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic, biological, and environmental factors;

(12) "person" includes any government or entity thereof (and a citizen of any foreign nation);

(13) "Secretary" means the Secretary of Commerce, or his delegate;

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States;

(15) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(16) "traditional foreign fishing" means longstanding, active, and continuous fishing for a particular stock of fish by citizens of a particular foreign nation in compliance with any applicable international fishery agreements and with the laws of such foreign nation; and

(17) "United States", when used in a geographical context, includes all States.

FISHERIES MANAGEMENT RESPONSIBILITY

SEC. 4. (a) CONTIGUOUS FISHERY ZONE.—(1) There is established, for the duration of this Act, a fishery zone contiguous to the territorial sea of the United States. The United States shall exercise exclusive fishery management responsibility and authority within this contiguous fishery zone.

(2) The contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is 197 nautical miles from the inner boundary.

(3) Notwithstanding any other provision of law, the fishery management responsibility and authority of the United States within the contiguous fishery zone of the United States shall not include or be construed to extend to highly migratory species, except to the extent such species are not managed pursuant to bilateral or multilateral international fishery agreements.

(b) ANADROMOUS SPECIES.—The fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: Provided, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

(c) GENERAL.—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, and with respect to anadromous species of fish, pursuant to the responsibility and authority vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act.

(d) REGULATIONS.—The Secretary is authorized to promulgate such regulations in accordance with section 553 of title 5, United States Code, as are necessary to implement the purposes of this Act. The Secretary is further authorized to amend such regulations in the manner originally promulgated.

FOREIGN FISHING RIGHTS

SEC. 5. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone of the United States, or for anadromous species or both, by citizens of any foreign nation, in accordance with this section, only if such nation has traditionally engaged in such fishing prior to the date of enactment of this Act.

(b) PROVISIONS.—The allowable level of traditional foreign fishing shall be set upon the basis of the portion of any stock which cannot be harvested by citizens of the United States. Allowed traditional foreign fishing and fishing by citizens of the United States annually shall not, for any stock, exceed the optimum sustainable yield for such stock.

(c) RECIPROCITY.—Traditional foreign fishing rights shall not be recognized pursuant to this section unless any foreign nation claiming such rights demonstrates that it grants similar traditional fishing rights to citizens of the United States within the contiguous fishery zone of such nation, if any exist, or with respect to anadromous species which spawn in the fresh or estuarine waters of such nations.

(d) PROCEDURES.—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation claiming traditional fishing rights.

(2) The Secretary is authorized to establish reasonable fees which shall be paid by the citizens of any foreign nation engaged in exercising foreign fishing rights recognized under this section. Such fees shall be set in an amount sufficient to reimburse the United States for administrative expenses incurred pursuant to this section and for an equitable share of the management and conservation expenses incurred by the United States in accordance with this Act, including the cost of regulation and enforcement.

(e) PROHIBITION.—Except as provided in this Act, it shall be unlawful for any person not a citizen of the United States to own or operate a fishing vessel or fishing support vessel engaged in fishing in the contiguous fishery zone of the United States or for anadromous species of fish.

MARINE FISHERIES MANAGEMENT AND CONSERVATION PLANNING

SEC. 6. (a) OBJECTIVES.—It is the intent of the Congress that the following objectives be considered and included (to the extent practicable) in plans, programs, and standards for the management and conservation of marine fisheries; (1) evaluation of actual and foreseeable costs and benefits attributable thereto; (2) enhancement of total national and world food supply; (3) improvement of the economic well-being of fishermen; (4) maximum feasible utilization of methods, practices, and techniques that are optimal in terms of efficiency, protection of the ecosystem of which fish are a part, and conservation of stocks and species; and (5) effectuation of the purposes stated in section 2(b)(4) of this Act. Due consideration shall be given to alternative methods for achieving these objectives.

(b) FISHERIES MANAGEMENT COUNCIL.—There is established a Fisheries Management Council (hereinafter referred to as the "Council"). The Council shall consist of 11 individual members, as follows:

(1) a Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) three Government members, who shall be the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of State, or their duly authorized representatives; and

(3) seven nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) three to be selected from a list of qualified individuals recommended by each of the regional fisheries commissions or their successors, one of whom shall be a representative respectively of Atlantic, Pacific, and Gulf of Mexico commercial fishing efforts; and

(B) four to be selected from a list of qualified individuals recommended by the National Governors Conference, at least one of whom shall be a representative of a coastal State.

As used in this paragraph, a list of qualified individuals shall consist of not less than three individuals for each Council member to be appointed.

As used in this subsection, "qualified individual" means an individual who is distinguished for his knowledge and experience in fisheries management and conservation, and who is equipped by experience, known talents, and interests to further the policy of this Act effectively, positively, and independently if appointed to be a member of the Board. The terms of office of the nongovernment members of the Council first taking office shall expire as designated by the President at the time of nomination—two at the end of the first year; two at the end of the second year; and three at the end of the third year. The term of office of the Chairman of the Council shall be 3 years. Successors to members of the Council shall be appointed in the same manner as the original members and, except in the case of Government members, shall have terms of office expiring 3 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) POWERS AND DUTIES.—The Council shall—

(1) engage in the preparation of a plan or plans for marine fisheries management and conservation;

(2) provide information and expert assistance to States and local or regional fisheries authorities in marine fisheries management and conservation;

(3) adopt, amend, and repeal such rules and regulations governing the operation of the Council and as are necessary to carry out the authority granted under this section; conduct its affairs, carry on operations, and maintain offices; appoint, fix the compensation, and assign the duties of such experts, agents, consultants, and other full- and part-time employee as it deems necessary or appropriate;

(4) consult on an ongoing basis (A) with other Federal agencies and departments; (B) with officials of coastal States who are concerned with marine fisheries management and conservation planning; (C) with appropriate officials of other nations which are exercising traditional foreign fishing rights, through the good offices of the Secretary of State; and (D) with owners and operators of fishing vessels;

(5) enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its function and duties with any person (including a government entity);

(6) prepare a survey of fisheries subject to the emergency conservation and management authority granted to the United States by this Act, including, but not limited to, depleted stocks and stocks threatened with depletion; and

(7) survey, study, and prepare a marine fisheries management plan setting forth the elements of a national management system to conserve and protect fish.

(d) REVIEW BY CONGRESS.—The Council shall submit the marine fisheries management plan adopted by the Council to the Senate Committee on Commerce and the Committee on Merchant Marine and Fisheries of the House of Representatives not later than 2 years after the date of enactment of this Act. The marine fisheries management plan shall be deemed approved at the end of the first period of 180 calendar days of continuous session of Congress after such date of transmittal unless the House of Representatives and the Senate pass resolutions in substantially the same form stating that the marine fisheries management plan is not favored. If the House and the Senate pass resolutions of disapproval under this subsection, the Council shall prepare, determine, and adopt a revised plan. Each such revised plan shall be submitted to Congress for review pursuant to this subsection. For purposes of this section (1) continuity of session of Congress is broken only by an adjournment sine die; and (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 180-day period.

(e) MISCELLANEOUS.—(1) The marine fisheries management plan which is adopted

by the Council and which becomes effective after review by the Congress is not subject to review by any court.

(2) The Council shall have a seal which shall be judicially recognized.

(3) The Administrator of General Services shall furnish the Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(4) A member of the Council who is not otherwise an employee of the Federal Government may receive $300 per diem when engaged in the actual performance of his duties as a member of the Council plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties. Each member of the Council shall be authorized such sums as are necessary to enable him to appoint and compensate an adequate qualified full-time professional staff responsible and subject to his control, but not otherwise subject to control by the Council.

(f) TERMINATION.—The Council shall cease to exist 30 days after adoption by Congress of the marine fisheries plan pursuant to subsection (d) of this section.

(g) AUTHORIZATION.—There are hereby authorized to be appropriated for the purposes of this section a sum not to exceed $1,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

INTERNATIONAL FISHERY AGREEMENTS

SEC. 7. (a) GENERAL.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which is engaged in, or whose citizens are engaged in, fishing in the contiguous fishery zone of the United States or for anadromous species. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species as to which such nation asserts management responsibility and authority and for which citizens of the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements on a bilateral or multilateral basis to effectuate the purposes, policy, and provisions of this Act. Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(1) coastal species, which are found in both the contiguous fishery zone of the United States and the equivalent such zone of a foreign nation adjacent thereto;

(2) anadromous species, which are found during the course of their migrations in ocean areas subject to the fishery management responsibility and authority of more than one nation;

(3) highly migratory species which are or may be covered by international fishery agreements; and

(4) coastal species, which are found in areas subject to the fishery management responsibility and authority of any foreign nation, through measures which allow citizens of the United States to harvest an appropriate portion of such species in accordance with traditional United States fishing rights in such areas.

(b) REVIEW.—The Secretary of State shall review, in cooperation with the Secretary, each treaty, convention, and other international fishery agreements to which the United States is party to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend such agreement: *Provided*, That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other international agreement which is in effect on the date of enactment of this Act.

(c) BOUNDARIES AGREEMENT.—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the contiguous fishery zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the U.S. Government shall not recognize the limits of the contiguous fishery zone of any foreign nation beyond 12 nautical miles from the base line from which the territorial sea is measured, unless such nation recognizes the traditional fishing rights of citizens of the United States, if any, within any claimed extension of such zone or with respect to anadromous species, or recognizes the management of highly migratory species by the appropriate existing bilateral or multilateral international fishery agreements irrespective of whether such nation is party thereto.

RELATIONSHIP TO STATE LAWS

SEC. 8. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within the territorial sea of the United States.

PROHIBITED ACTS AND PENALTIES

SEC. 9. (a) PROHIBITED ACTS.—It is unlawful for any person to—

(1) violate any provision of this Act, or any regulation issued under this Act, regarding fishing within the contiguous fishery zone or with respect to anadromous species;

(2) violate any provision of any international fishery agreement to which the United States is party negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the contiguous fishery zone or fishing for anadromous species as defined in section 4 of this Act;

(3) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (1) or (2) of this subsection where such person knew or had reason to know that such taking was not lawful;

(4) violate any duly issued regulation under this Act with respect to making, keeping, submitting, or furnishing to the Secretary any records, reports, or other information;

(5) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control where the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials; or

(6) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (5) of this subsection, or to resist any lawful arrest.

(b) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by subsection (a) of this section, shall be liable to the United States for a civil forfeiture in accordnace with subsection (d) of this section and for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each day of each violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person who is found to have committed a prohibited act and against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2) (e) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) CRIMINAL PENALTIES.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $50,000 or imprisoned for no more than 1 year, or both.

(d) CIVIL FORFEITURE.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered under this subsection for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informants with respect to forfeitures shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that pur-

pose by the Secretary of the department in which the Coast Guard is operating.

ENFORCEMENT

SEC. 10. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued under this Act, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, and facilities of any other Federal agency in the performance of such duties.

(b) POWERS.—Any person duly authorized pursuant to subsection (a) of this section may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the contiguous fishery zone of the United States, or which he has reason to believe is fishing for anadromous species;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 9(a) of this Act;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 9(a) of this Act.

(c) COURTS.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act. Such court may issue all warrants or other process to the extent necessary or appropriate. In the case of Guam, such actions may be brought and such process issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all actions brought under this Act without regard to the amount in controversy or the citizenship of the parties.

DURATION OF ACT

SEC. 11. (a) EFFECTIVE DATE.—The provisions of section 4 of this Act shall become effective 90 days after the date of enactment of this Act. All other provisions of this Act shall become effective on the date of enactment.

(b) TERMINATION DATE.—The provisions of this Act shall expire and cease to be of any legal force and effect on such date as the Law of the Sea Treaty, or other comprehensive treaty with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 12. Except with respect to section 6 and section 9 of this Act, there are authorized to be appropriated for the purposes of this Act to the Secretary such sums as are necessary, not to exceed $4,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed $13,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER TO POSTPONE S. 4033 INDEFINITELY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 4033 be indefinitely postponed.

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs, with hearings scheduled on the D–2 lands in Alaska, be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. 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.

The assistant legislative clerk proceeded to call the roll.

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

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

S. 3639 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I have been notified by Mr. MONDALE that there will be no intention to proceed with the consideration of S. 3639, a bill to provide for the development and implementation programs for youth camp safety, during the remainder of this session because of the impossibility of getting action in the other body this year.

I ask unanimous consent that that bill be transferred to the calendar of "Subjects on the Table."

The ACTING PRESIDENT pro tempore. 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.

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

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an additional period for the transaction of routine morning business, not to exceed 5 minutes, with statements therein limited to 5 minutes.

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

NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT OF THE UNITED STATES

Mr. BAKER. Mr. President, I am pleased to support the confirmation of the nomination of former Gov. Nelson Rockefeller to be Vice President of the United States.

I have known Nelson Rockefeller for many years. I have known him in his capacity as a distinguished Governor of a great State, as a functionary of the Republican Party, as a candidate for the Republican nomination for the Presidency. I know him to be a man of integrity, of initiative, and of energy. I believe that he will be an extraordinarily good Vice President of the United States, and I commend him to my colleagues for their support on the upcoming vote on this day, in this Chamber.

I could elaborate at some length on my evaluation of this man and his qualifications and competence to serve in the high position for which he has been chosen by the President of the United States. I can point out that Nelson Rockefeller comes from a distinguished American family whose philanthropy has extended to virtually every section of the country. We in Tennessee have a particularly fond recollection of the contributions of the Rockefeller family to the assembling of the Great Smoky Mountains National Park and the contribution to the people of the United States by that family.

I recall in 1968 when Governor Rockefeller called me on the telephone and indicated that he fully understood that he was not my choice to be the Republican Presidential nominee, but asked whether I would arrange for him to meet Republicans in my State to discuss his prospects and the possibility of finding support in the Volunteer State, which I agreed to do.

Governor Rockefeller arrived, and I was privileged to introduce him to the Republican State Executive Committee and to most of the so-called Republican establishment. I found him to be very generous in his appraisal of the political situation. He was unoffended by the fact that I believed that he did not have a single supporter in that group. But he felt then—and I think this is an important consideration in terms of his qualifications to serve as Vice President—that it was important that the Republican Party have a choice and that it should not become a party of rigid ideology; that it should have a free choice among moderate, liberal, and conservative points of view.

I applaud him for that, because I believe that our two great national parties should be essentially nonideological and that they should encompass a broad spectrum of points of view ranging from the liberal to the conservative.

It was my pleasure then to present Governor Rockefeller to the Republican establishment in Tennessee and to hear his sincere remarks in behalf of his own candidacy.

As a man who possesses a broad and successful range of experience both in and out of government, former Governor Rockefeller should prove to be substantially helpful in his new role. Already a man of national prominence, the Vice President designate has become even better known to the Members of Congress and the American people since his nomination on August 20.

Mr. Rockefeller has undergone what has been probably the most excruciat-

ingly detailed examination of any Vice Presidential nominee in our Nation's history. Both the Senate and Rules Committee and the House Judiciary Committee have devoted a great deal of time to hearing personal testimony from the former Governor on the widest possible range of issues. In these public hearings, Nelson Rockefeller has responded with directness and good will.

In addition, a wealth of testimony has also been heard from Mr. Rockefeller's supporters and his adversaries. It would seem that every conceivable concern relating to his fitness to serve in the second highest office in the land has been addressed in the public hearings and in the press.

I think it is a tribute both to the Vice President designate and to the members of the Senate Rules Committee that his nomination has been ratified unanimously by that committee. I anticipate that the favorable action by the Rules Committee will be upheld in an overwhelming vote on the Senate floor.

Some opponents of the Rockefeller nomination outside Congress have urged Members to join them in opposition because, in their judgment, the nominee does not meet some standard of ideological purity or has not expressed agreement on some specific issue deemed of overriding importance.

It seems to me, however, that these are not the criteria that a nominee must meet. I suspect that, if perfect ideological compatibility were required, there might be as many names in contention as there are Members of this body. Indeed, President Ford solicited from the Members of the Senate and the House, from the Governors, and from the public, suggestions for filling this office. I think it is significant that the name of Nelson Rockefeller appeared conspicuously on a majority of such lists.

I believe that we should now proceed, and proceed promptly, to the confirmation of his nomination. I applaud the leadership of the Senate for ordering this vote this afternoon. I intend to support and to vote for the confirmation of the nominee.

The question remaining is a simple one: Does Nelson Rockefeller meet the qualifications for the Office of the Vice President as designated in the 25th amendment? I believe that an affirmative answer to that question is obvious.

Mr. President, I have grave reservations about the 25th amendment. I do not believe that it has worked well. I believe it should be changed, if not in fact repealed. Notwithstanding that, I believe that the requirements of the 25th amendment which are now the law of the land have been fully met and satisfied by the testimony of Nelson Rockefeller and other witnesses before the Committee on Rules and Administration of the Senate and the Judiciary Committee of the House of Representatives. I believe that former Governor Rockefeller has more than met the standards designated therein and that his past service indicates his potential to be of valuable assistance to our Nation in the years ahead. It is in the best interest of the entire country, then, that I urge the confirmation of Nelson Rockefeller's nomination to be Vice President of the United States.

I thank the leadership for giving me this opportunity to make these remarks.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974

The Senate continued with the consideration of the bill (S. 1988) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

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. I ask unanimous consent that Arthur Kuhl and David Keaney of the staff of the Committee on Foreign Relations be accorded the privilege of the floor during the consideration of the pending measure.

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 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 S. 1988, the Emergency Marine Fisheries Protection Act of 1974, be temporarily laid aside.

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 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.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. LONG be recognized for not to exceed 15 minutes to speak out of order.

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

NOMINATION OF NELSON ROCKEFELLER

Mr. LONG. Mr. President, I have reviewed the hearings and the investigation of Nelson Rockefeller to be Vice President of the United States. After careful scrutiny, it is clear to me that this nominee has been examined as thoroughly and extensively as almost any nominee in the history of the country.

This has been one of the most extensive and thorough nomination hearings ever held. After such scrutiny, it is clear to me that the nominee is equal to the high standards demanded of the Vice President of the United States.

Because of the nominee's personality and involvement over many years in many aspects of public and private life, the hearings were necessarily more detailed, requiring the nominee himself to appear personally for 22 hours. I can think of no individual who could have withstood such an exhaustive inquiry more favorably than Nelson Rockefeller.

Nelson Rockefeller has served the State of New York and the Nation for almost 40 years. This is clear evidence of his executive ability and his qualifications for filling the second highest office in the land. Any man who can serve 15 years as the Governor of New York certainly has the executive qualities needed to be Vice President.

Throughout his years of dedicated service to the State of New York and this Nation, his broad range of acquired experiences uniquely qualify him for the office of Vice President.

Mr. President, I ask unanimous consent that a list of some of Mr. Rockefeller's accomplishments appear in the RECORD at this point.

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

As Governor of New York:

Expanded the State Univeristy to 72 campuses.

Proposed bond issues that built new parklands and state parks.

Instituted the first state financing for mass transportation.

Overhauled the state's welfare system for the first time in 20 years.

Increased the state police force and through a statewide prosecutor's office bore down on corruption in New York.

In medicine, he led the way for adoption of a state medical care program, created the bureau of heart disease, the birth defects institute, and two new state medical schools.

He created job development and authorities to provide low cost loans for business expansions and to induce business to locate and expand in low income areas.

In housing, his administration completed or started almost 90,000 units for low income families and eliminated discrimination in housing, employment, and public accommodations.

For senior citizens he created a state office for the aging including property tax reduction for the elderly citizen.

These are all vital areas of concern to the entire country and his record of hard work and accomplishments in these fields qualify him imminently to be Vice President.

In the international area:

He served under President Franklin Roosevelt as program director for the office of Coordination of Inter-American Affairs.

He later served as Assistant Secretary of State for American Republic Affairs.

He also served as Chairman of the Inter-American Development Commission which included all 21 American Republics.

In 1950 he was named Chairman of the International Development Advisory Board that developed the blue print for America's foreign assistance program.

Mr. LONG. Mr. President, it is unfortunate that some of our Members seem so obsessed with the wealth of Mr. Rockefeller. The assumption on the part of some is that a man can be too rich or too economically powerful to be fit for the Presidency or the Vice Presidency.

I think it would be well that we focus attention on some of the man's very fine contributions to public life and in the way in which he has used his wealth for the improvement of his Nation, his community, and his neighbors.

The privacy of his family has been invaded for the purpose of completely exploring his wealth.

Attention should now be focused on the quality of his public life, which is extensive.

The accomplishments of Nelson Rockefeller are extensive and impressive. And, it goes without saying that he had a fulfilling and highly successful career as a public servant.

We would be fortunate to have Nelson Rockefeller as our Vice President. The country certainly needs a Vice President in these crucial times of domestic and economic difficulties.

I hope that his confirmation can be accomplished expeditiously.

TAX HAVEN ASPECTS OF AMERICAN-OWNED SHIPPING OPERATED UNDER THE LIBERIAN FLAG

Mr. LONG. Mr. President, on Friday, November 29, 1974, there appeared in the Washington Star-News a very thoughtful article by James R. Polk, discussing the tax haven aspects of American-owned shipping operated under the Liberian flag. I would commend it to my colleagues.

It is especially significant because it comes to our attention at a time when the Nation generally feels that the international oil companies have been permitted to make excessive profits and escape with little or no tax payment to this Government on their properties abroad. What some of us have been hearing for many months now is that a great deal of so-called obscene profits of the international oil companies are being sheltered in their foreign shipping companies which are separately chartered under separate nations and separate corporations in some cases.

At a time when American labor is fighting for the privilege of a mere handful of jobs on some of the tankers bringing oil to America, it will arouse resentment to learn that the most privileged people on Earth, the international jet set and the international wet set—those who spend more time in bathing suits than they do in business clothes—are permitted by this Nation to move their money around from one tax haven to another, paying no income tax anywhere, hiring labor under virtual slave conditions, while screaming loudly about subsidies any time an American labor man asks for a job.

I have lived long enough to learn that there are usually two sides to an argument. Nevertheless, I must confess I have great difficulty in seeing why those who are privileged to export capital produced by hard-working American labor, hiring their labor in the famine-stricken nations of Asia and Africa at the going wage paid in those countries, should not at some point pay some reasonable amount of taxes to some government somewhere. Senators will be interested to learn that the Liberian merchant marine is being operated out of a building across the street from the White House. They may be somewhat surprised to find that the Liberian merchant marine has been represented far more effectively in the White House and the State Department than the American merchant marine.

The Americans who own the Liberian merchant marine are people about whom we should learn a great deal more.

I ask unanimous consent that the article to which I refer be inserted in the RECORD at this point.

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

LOOPHOLES BENEFIT U.S. SHIPPING: BANK HERE RUNS LIBERIAN TAX HAVEN

(By James R. Polk)

A Washington-based bank has a little-known, long-term concession to operate a major tax haven for American-owned shipping in the African coastal nation of Liberia.

The giants of the U.S. oil industry sail many of their tankers under the flag of Liberia to escape income taxes through loopholes on both sides of the Atlantic.

The maritime administration of that African country is run, in effect, from an 11th-floor office looking down on the White House from the International Bank's building at 1701 Pennsylvania Ave. NW.

The International Bank Ltd., a parent of the First National Bank of Washington, is a financial chain owning most of the stock of The International Trust Co. of Liberia, which not only handles the ship registration in that nation, but also acts as the tax collector.

Fred T. Lininger, a polite, white-haired American financier who is a senior vice president of International Bank, carries a dual title: he is also, by long-term appointment, the senior deputy maritime commissioner for Liberia.

The International Bank subsidiary's contract to serve as the Maritime Administration in the African tax shelter is apparently lucrative. Its income depends on the level of ship registrations—in effect, the bank gets a cut of the tonnage tax payments—and accounts for a substantial piece of all the bank's foreign earnings.

The tax haven in Liberia exists because U.S. law doesn't cover overseas earnings in the shipping industry by foreign-based subsidiaries of American firms.

As a result, a dozen or more oil companies have created foreign offshoots to own tankers registered in Liberia to carry their crude on the high seas.

At last count by the U.S. Maritime Administration, American-controlled firms had 161 tankers flying the flag of Liberia, with another 79 such tankers under construction.

The tanker "Statue of Liberty" is actually a Liberian vessel, owned by an American oil company. So is the "J. Paul Getty" and the "Phillips Oklahoma" and the "Esso Berlin."

Two proposals now pending on Capitol Hill, however, threaten this tax shelter.

One change in the tax reform bill would repeal the exemption for overseas shipping profits and require that the earnings be reinvested in the same foreign operations to elude taxation.

The effect of the repeal, if passed, is still rather foggy. One staff expert on Capitol Hill said, "I don't think most of the members fully grasped it."

The second proposal poses a more serious peril to the tax shelter. A cargo bill, backed by shipping unions and American shipyards, would require that 30 percent of the oil imported into this country be carried on U.S. tankers.

That bill, bitterly fought by American oil companies, already has passed both houses, and only Senate approval of a conference committee report is needed next week before the measure goes to the White House.

Asked about the bill's impact on tanker registrations in Liberia, Lininger said, "That's just hard to foresee. I don't see how it could help. But how much it will hurt eventually, I don't know."

The Liberian tax operation has been profitable for International Bank for a number of years. Lininger declined to say how profitable, but he did say, "Frankly, it's been an extremely satisfactory and worthwhile investment."

A financial filing by International Bank with the Securities and Exchange Commission includes this statement:

"The International Trust Company of Liberia acts as the maritime administrator of Liberia, which activity is the major source of its income. . . . The total income of the International Trust Company constitutes a substantial portion of the total income of all of the foreign subsidiary banks."

How much is a substantial portion? That isn't answered. But the total foreign income and earnings for International Bank's overseas properties last year was listed at just under $2 million.

However, this is still not a big cut of all of International Bank's profits. The company is a major owner of Financial General Bankshares, a local banking chain which controls the First National Bank of Washington, Union Trust Company, Arlington Trust Company, and Clarendon Bank & Trust, as well as the Bank of Buffalo and the National Bank of Georgia.

Because of the tax advantages, Liberia, which is located on the western curve of Africa, has the largest merchant fleet in the World. Steel, sugar and aluminum companies, as well as private shipping tycoons, join the oil giants in registering vessels under that country's flag.

The International Bank operation provides the services for firms to set up foreign corporations in Liberia, administers the maritime law there, and handles the annual ship taxes and other assessments.

"They collect it as the government's agent," Lininger said.

In addition to the initial registration fee, Liberia has an annual tax of a dime per ton on a ship's cargo capacity. However, a tanker bringing oil from the Middle East a half-dozen times a year would pay three times that amount in American port fees alone.

The big advantage is found in income taxes. Liberia doesn't tax the earnings of its ships. And there is a large loophole in the U.S. income tax.

It works this way: If the profits which the American oil companies pay their own foreign shipping subsidiaries are left overseas, they avoid U.S. taxes because of a specific 1962 exemption for such shipping operations.

Even if the profits are brought back into this country, they can be sheltered by the foreign tax credit. Most of the royalties which American firms pay the Middle East

oil nations are labeled as taxes by those countries.

This means an oil company can subtract—not deduct—from its U.S. income taxes the dollar amount it has paid in foreign taxes. The result leaves the oil industry at practically the bottom of American business in the U.S. taxes it pays.

Liberia got involved in shipping taxes after World War II with the help of a former U.S. secretary of state, encouraged by an American president.

After the Yalta Conference, President Franklin D. Roosevelt suggested that Secretary of State Edward R. Stettinius Jr. stop off in Liberia for a friendship visit on the way home. After the war, Stettinius went back as a private citizen to help Liberia in economic development.

With his ideas, Liberia set up its ship registration system in 1948 and the International Trust Co. of Liberia was formed to run it at the same time. International Bank here bought the trust company in 1956.

Although he is an International Bank official, Lininger has been registered with the Department of Justice as an agent of a foreign government for 16 years, ever since he became Liberia's deputy maritime commissioner.

The maritime commissioner above him is a Liberian, but the International Bank subsidiary functions as the nation's maritime administration through a contract which runs through 1979 and which is being renegotiated to extend it.

The International Trust Co. of Liberia also holds other foreign properties for International Bank. It controls Europabank, N.V., in Rotterdam; owns pieces of Transorient Bank in Beirut and Credit European in Luxembourg, and embraces a finance corporation in Panama.

The tax reform bill now pending in the House is not expected to have any immediate effect on the Liberian shelter for shipping, primarily because it is given virtually no chance of passage in the Senate in the late stages of this year. But the issues will come up again next year.

A number of efforts are written into the bill to try to put an American tax bite on the money that U.S. firms earn overseas. The major change for the oil companies could be a proposed 52.8 percent ceiling on the use of foreign tax credit to offset the profits from foreign drilling operations.

For shipping, the repeal and reinvestment requirement would prevent firms from moving their tanker profits into diversification in other industries. That alone would probably not be enough to start reclaiming tax money from the profits on the high seas.

Lininger pointed out that American firms would probably continue to register their ships in nations like Liberia because of shipyard construction costs. A vessel must be built in America to fly the U.S. flag, but overseas construction costs are cheaper.

For instance, American shipping billionaire D. K. Ludwig had 34 vessels registered in Liberia at the start of last year, and was building 7 more tankers in Japanese shipyards to sail under the Liberian flag.

ESSO Tankers, Inc., was building 28 oil carriers overseas, Gulf Oil 13, Standard Oil of California 10, and Mobil Oil 9—all to be registered in Liberia.

The American oil giants set up foreign subsidiaries to own the tankers they use under the flag of Liberia. Gulf Oil controls the Afran Transport Co., which is the actual owner of most of its Liberian tankers.

A bigger change might be engineered if the Senate approves and President Ford signs the pending oil cargo bill. Most of the oil imports brought into this country are carried on vessels under a foreign flag. In fact, the actual U.S. tanker fleet is too small to carry any significant share now.

By requiring that 30 percent of the imports be shipped in the future in U.S. tankers, the bill would mean more jobs for American unions and more construction for American shipyards. The bill also carries a tax break—an exemption from import duties at the taxpayer's expense—to offset any higher shipping costs.

Neither Lininger nor International Bank has taken any visible position on the cargo bill on Capitol Hill, but Lininger obviously does not favor it. He called the bill inflationary and said it could invite retaliation by the exporting nations.

Mr. LONG. Mr. President, I am rather satisfied that it is those people who have been planting stories suggesting that Senators like myself who have received a campaign contribution from American seamen are corrupt because they have received contributions from those who represent American labor.

Mr. President, I only hope that investigation will not disclose that I have unknowingly received contributions from those who own the Liberian merchant marine. That, I would find embarrassing, indeed. I am unaware of it, and I am publicly offering to give it back now before we learn just who specifically those well-disguised exploiters of distressed humanity around this world turn out to be, enjoying special benefits under this Government as well as certain others.

Mr. MOSS. 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 (Mr. JOHNSTON). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be permitted to speak out of order for not to exceed 5 minutes.

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

THE TRADE REFORM ACT

Mr. HARRY F. BYRD, JR. Mr. President, the Senate will be considering, most of this week and probably next week, the trade reform legislation. That legisaltion has passed the House of Representatives. It came to the Senate Committee on Finance in March. The committee deliberated many months in regard to it, and it is now on the Senate Calendar.

I think the House of Representatives greatly improved the measure which was orignially sent to it by the administration. I think it is fair to say that the Senate Committee on Finance improved it even more. I wish, at this point, to commend Ambassador William Eberle for his tremendous contributions to the development of the pending legislation.

I plan to support the trade reform proposal. I feel, however, that it has been oversold. I doubt that the accomplishments resulting from it will be as great as the administration believes. Nevertheless, I think that, on balance, it is legislation which should be enacted by the current session of Congress.

There is one aspect of it that gives me concern, and I shall present a brief amendment at the proper time to attempt to correct this. This legislation would grant most-favored-nation treatment to the Union of Soviet Socialist Republics, and it would make possible the extension by the Export-Import Bank of huge loans to Russia at a low taxpayer-subsidized interest rate.

At the present time, according to testimony submitted to the Senate and statements by the manager of the Export-import Bank Extension Act, the Bank has granted $469 million in loans to Russia, plus $118 million in guarantees. That makes a total of $587 million in loans and guarantees. Unless the pending legislation is amended, there will be no limit on the amount of loans that can be extended to Russia under the pending legislation. The only limit will be the total size of the Export-Import Bank; namely, $25 billion. Of course, I assume that that entire amount would not be loaned to one country, and I do not contend that it would be. But I do believe that it is important that the pending legislation has a ceiling on the amount of loans that can be made by the Export-Import Bank without prior approval by Congress. Therefore, I shall present a very brief amendment which would set a ceiling of $300 million on additional loans over and above the $587 million in loans and guarantees now already made to Russia—a ceiling of $300 million in additional loans.

Mr. President, a week ago today, on December 3, the Committee on Finance held a special meeting and requested the Secretary of State, Dr. Kissinger, to testify requested the Secretary of State, testify in regard to the granting of most-favored-nation tariff treatment to the Soviet Union and the resulting extension of long-term loans and low-interest taxpayer-subsidized interest rates. I queried Secretary Kissinger at some length, and I ask unanimous consent that my questions and Secretary Kissinger's replies be printed at this point in the RECORD.

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

TRANSCRIPT

The CHAIRMAN. Senator Byrd asked that these hearings be held and has insisted that we should understand this subject before the Senate takes the bill up. I, therefore, yield my place to Senator Harry Byrd.

I would suggest that the first round of questions would be limited to ten minutes for each senator and thereafter we perhaps can have a longer time for those who care to participate further.

Senator BYRD. Thank you, Mr. Chairman.

Mr. Secretary, the Trade Reform Bill as approved by the House Ways and Means Committee and by the House of Representatives and by the Committee on Finance includes the Jackson-Vanik Amendment, of which I am a co-sponsor, which requires certain concessions from Russia in return for being granted most-favored-nation treatment and long-term low-interest rate loans.

You told this committee on March 7 that

you would recommend a veto of the Trade Reform Bill if the Jackson-Vanik Amendment remains in the bill, because it would be interfering in the internal affairs of the Soviet Union.

My question, Mr. Secretary, is this: In return for the United States granting most-favored-nation tariff treatment, U.S. technology and long-term credits at taxpayer-subsidized interest rates to Russia, do you think the United States should demand concessions from Russia?

Secretary KISSINGER. Senator, to complete the record of what I said on March 7, I also pointed out to Senator Nelson and others that I was prepared to work with members of this committee or other interested senators on a compromise between their concerns and the concerns that I expressed here, and I did not flatly say that we would veto any bill that included the Jackson-Vanik Amendment.

To answer your question, Senator, I believe that the United States has a right, indeed it has a duty, to ask for reciprocity of some sort from the Soviet Union in return for any concessions that we make to the Soviet Union.

Senator BYRD. What firm commitments do you have from Russia?

Secretary KISSINGER. As I pointed out in my testimony, we have to separate two problems. We have to separate the problem of state-to-state relationships, and we have the problems that do not lend themselves to international negotiations as they are commonly practiced.

As I pointed out in my testimony on March 7, the United States cannot even begin any commercial negotiations with the Soviet Union for three years in the face of considerable pressure that we do not do so until the Soviet Union had satisfied certain international standards of conduct which we thought were necessary before a more normal trading relationship could be established.

It was only after the Soviet Union began to practice greater restraint in certain important areas that we began these commercial negotiations.

Now with respect to the Soviet emigration practices, we face the dilemma that it is highly unusual, in fact, I know of very few precedents in international relations, where the domestic relations of another country becomes the subject of an international quid pro quo, and we, therefore, had to find a formula wich would satisfy the concerns of those who were concerned with the emigration issue and at the same time the Soviet's refusal to make this the subject of a state-to-state negotiation.

I would also like to point out that even prior to this we had made repeated presentations to the Soviet Union, which we did not publicize, on the issue of emigration, and these presentations were clearly not without effect because Jewish emigration from the Soviet Union rose between 1949 and 1973 from a rate of 400 a year to a rate of 33,500.

Now, what I have attempted to set down before this committee, Senator, is a formula by which the Soviet leaders explain their domestic practices and legislation to us in the form of certain clarifications, assurances and information.

This is not a formal commitment, nevertheless, the President in his conversations with the three senators, and I in my letter to Senator Jackson, summed up these clarifications and indicated that the United States Government would stand behind them as having been received from the Soviet Government as a means of clarifying the issue, and we thought that this formula would satisfy the concerns of all interested parties, and we would propose that the Congress would permit us to see whether this can operate. And then in 18 months we can all see whether this system of indirect assurances will in fact operate as we hope it will.

Senator BYRD. You say the Jackson-Vanik Amendment interfere with the internal affairs of Russia.

Does or does not the Kissinger-Jackson compromise interfere in Russia's internal affairs?

Secretary KISSINGER. The compromise which I have put before the committee takes great care to maintain the distinctions that we have tried to elaborate while hopefully producing a positive outcome of what we are attempting to achieve, namely, increased Jewish emigration.

Senator BYRD. In replying to my second question, you stated it was very unusual for one nation to attempt to interfere in the emigration matters of another nation, and I certainly agree with that statement.

Then you point out that you have made great progress in this regard. What continually comes to my mind is why would the second most powerful nation in the world bow to the demands of the Congress for concessions on Soviet emigration?

Does this not suggest just how badly Russia needs and wants American technology, long-term loans and taxpayer-subsidized interest rates?

Secretary KISSINGER. Well, Senator Byrd, again I would like to point out that we had made these presentations before there had been any congressional pressures or any formal congressional pressures.

I believe that what has been achieved through a variety of means does indicate that the Soviet Union places considerable importance on improved relations with the United States, including the acquisition of the benefits which you have described.

However, there is a point beyond which this cannot be pressed. It is a question of judgment where that point is.

Senator BYRD. The Soviet Union has turned to the United States for economic assistance, for our capital, our agricultural produce, and our advanced technology, all the while improving and expanding its nuclear and conventional military power.

My question is this: Whatever its intended purpose, does not the extending of long-term credit to the Soviets get them out of an economic bind while permitting them to continue their high rate of defense spending?

Are we not actually subsidizing the Soviet military build-up?

Secretary KISSINGER. Soviet history, Senator, tends to indicate that the Soviet Union will maintain a high rate of defense spending regardless of its trading relationship with other countries. It maintained a high rate of defense spending during the period of complete ostracism by other countries. It maintained a high rate of defense spending during the period of a substantial cut-off of economic relations with the United States.

The judgment that has to be made is whether to relate the Soviet Union to more normal economic practices and in a way improve, substantially improve primarily the position of the population, whether this will not create more incentives for more responsible international conduct.

This consideration, if I may so say, is all the more important if one keeps in mind that there are many other nations that are eager to step in where we withdraw, especially Western Europe and Japan.

Senator BYRD. Mr. Secretary, neither the Congress nor the taxpayers have been told the extent of the obligation to extend subsidized credit to the USSR, would you tell the committee what commitments have been made in this regard?

Secretary KISSINGER. I am not sure that I understand the question that the Congress has been told about the extent of the obligations.

I am not aware of any commitments that have been made to the Soviet Union. All commitments have been held in abeyance subject to the passage by the Congress of the Trade Reform Act and the associated Exim authorization.

Senator BYRD. What brings me to that question is the record which shows that the Russian Government has received $469 million in loans from the Exim Bank plus $118 million in guarantees for a total of $587 million.

Secretary KISSINGER. Over a three-year period.

Senator BYRD. Over less than a three-year period, about a 14-month period.

The Senate last month put a ceiling on additional loans and guarantees to Russia of $300 million. The Senate-House conferees removed the ceiling.

Do you oppose a ceiling on additional loans and guarantees to Russia?

Secretary KISSINGER. Senator, from the point of view of the flexibility in the conduct of foreign policy, I would prefer that no ceiling be placed on these loans, but I would favor congressional consultation so that this committee is informed in a timely fashion of what is contemplated. But I believe it would increase the flexibility of our foreign policy if no ceilings were placed on——

Senator BYRD. What you are asking for is a blank check.

Secretary KISSINGER. No, Senator, if you asked what will support our foreign policy most effectively, I would have to say that I do not believe that a ceiling—that we would be better off without a ceiling.

I do not think that this would necessarily constitute a blank check if there are adequate consultation provisions because this will give the Congress sufficient opportunity to present its opposition and presumably the Administration would not grant loans unless in its judgment it supported the objectives of our foreign policy. And I can assure you we will do so with considerable restraint.

Senator BYRD. I will get to the 18-month period a little bit later. But to clarify one point, the information given to the Senate by the manager of the Exim Bank was that these credits had been extended over a period of 13 to 14 months.

Secretary KISSINGER. Senator, I believe that the difference in perspective arises from the fact that the discussions may well have started three years ago and did not result in the granting of credits until about 15 months ago. So my perception of it is that the discussions from a foreign policy point of view started shortly after the visit to Moscow by Secretary Lynn and myself in 1972, though it is quite possible that the first loan was not approved until some time afterwards.

I think this is where the difference between your perception and mine arises.

Senator BYRD. Mr. Secretary, is it not correct what the Soviet Union really wants and really needs from the United States are technology, know-how, long-term credits, and low interest rates? That is really what it needs.

Secretary KISSINGER. What was the last thing?

Senator BYRD. Subsidized low interest rates.

Secretary KISSINGER. Well, I think it is correct that the Soviet Union has indicated an interest in all of these items and that the decision that we have to make is to balance the relative strengthening of the Soviet economy that this represents against the advantages of drawing the Soviet Union into more normal international relations.

I think it is also important to point out that these credits which you have mentioned represent a very small fraction of the total of an economy that has several hundred billion GNP.

Senator BYRD. Thank you, Mr. Secretary.

Now, on page 15 of your statement today, you mentioned the Senate amendment 2000. I have not seen the amendment so I cannot comment categorically on it. But your statement says that Senate Amendment 2000 would authorize the President to waive the provisions of the original Jackson-Vanik Amendment and to proceed with the granting of most favored nation treatment and Export-Import Bank facilities for at least an initial period of 18 months.

Now the reason that I would have difficulty supporting that amendment is that if there is no ceiling on Exim Bank loans to Russia, then during that next 18 months hundreds of millions or billions of dollars can be made in loans and guarantees to Russia, and then 18 months later, when the Congress reviews it, all of the money has left the country and what do we do then?

Secretary KISSINGER. Well, first of all, the reason Exim Bank facilities is mentioned here is because the granting of Exim facilities has been tied to the passage of the Trade Reform Act. We recognize that the Exim Bank facilities are subject to separate legislation. Whatever you pass here in the Trade Reform Bill only removes the impediment that has been created by making Export-Import loans subject to the passage of the Trade Reform Bill, it does not prevent the Congress from passing whatever legislation it wishes with respect to the Exim Bank.

Senator BYRD. Yes, but if I may interrupt there, Mr. Secretary, the State Department has lobbied against the ceiling—

Senator BYRD. On loans to Russia.

Secretary KISSINGER. That is correct.

Senator BYRD. You yourself say you do not favor a ceiling?

Secretary KISSINGER. That is correct.

Senator BYRD. Yet you want the Jackson-Vanik provision waived for 18 months, which certainly clearly makes possible the granting of hundreds of millions of dollars or billions of dollars of Export-Import credits?

Secretary KISSINGER. You proceed from the premise that there is an unquenchable desire to pour money into the Soviet Union.

Senator BYRD. Yes, I do proceed from that. I will be frank with you, I do proceed from that premise.

Secretary KISSINGER. I would suggest to you, Senator, that for the first three years of our dealings with the Soviet Union the criticism that was made against us in the Senate, to be sure not from you, was that we were too reluctant to extend commercial benefits to the Soviet Union and the argument then was that commercial benefits would have a tendency to bring about a more moderate Soviet policy. So I can assure you that our policy has always been to relate the economic benefits to complete progress in international affairs so that the danger you describe, even in the absence of any other congressional restraints, would be minimum.

Secondly, while we do not want a legislated ceiling we are prepared to work out consultative arrangements by which the Congress would be fully informed about the rate of complicated loans and in which, therefore, the Congress would have an opportunity to express its objections while these loans were being considered.

So I am opposed to a legislated ceiling because it would deprive us of flexibility but I do not object to congressional review in such a manner that we would have to take very seriously into account the congressional views before major loans were being made.

Senator BYRD. Major loans have been made. The Senate has evidence of it. It wishes a ceiling of $300 million be established on additional loans, at the end of which time the Administration could come back and make additional requests if it wishes.

Secretary KISSINGER. Of course the Senate is a co-equal branch of the government and has a right to legislate what it wishes. When the Senate asks us for our opinion we have to state that we think it would be better if this were not done. After that, it is up to the judgment of the Senate.

Senator BYRD. Mr. Secretary, does the Kissinger-Jackson Agreement, or rather the agreement you have reached with the Soviet Union, apply to all citizens of Russia or just to the Jewish citizenry.

Secretary KISSINGER. Well, we were talking about Jewish emigration.

Now, again, these documents do not specifically refer to those of the Jewish faith but I think it is a reasonable extrapolation from the record that this was the predominant concern.

Senator BYRD. I won't do it at the moment because I don't know what the time element at the moment will be, but a little later I want to present to you 6,000 signatures from 6,000 Volta German families representing some 25,000 to 30,000 individuals.

It occurs to me that the question is broader than just one minority group.

As you know, Senator Buckley has recently been in the Soviet Union and he met with the dissident physicist Sakarov and at this meeting it was recommended that the United States press for freer emigration of all peoples, not just the Jews, but Ukranians, Armenians, Germans, Estonians, Latvians, Lithuanians, and other Soviet Nationalities, and Volta Germans, in return for U.S. trade concessions.

Did your assurances from Mr. Brezhnev cover those categories?

Secretary KISSINGER. I some how have the impression, but I would have to check to see whether that is correct, that there is some understanding between the German government and the Soviet government on the Volta Germans but I am not absolutely sure that is correct. I seem to have that at the back of my mind.

If you consider these letters legal documents, which as I pointed out they are not in the strict sense of the term, then strictly speaking they would apply to all nationalities.

There is no specific reference I believe to Jewish emigration but I think in the legislative history of this matter one would have to say that this has been the primary focus of the conversations.

Senator BYRD. Is it not correct that since 1972, in a period of so-called détente, there has been a methodical improvement and expansion of nuclear and conventional power in the Soviet Union and in eastern Europe?

Secretary KISSINGER. Yes, that is correct.

Senator BYRD. Would it not be wise for the United States to insist on a genuine and secure peace in the Middle East as a condition of its subsidized long term credit and technology which Moscow desperately needs?

Secretary KISSINGER. Well, first of all, I think we should clarify to some extent what the Export Import loans are, which I am sure you know better than I do.

Their basic purpose is to help American industry to be competitive. They are spent for American goods and they are, therefore, a means of assuring jobs for American workers.

Senator BYRD. Also it is a loan directly to the Russian government.

Secretary KISSINGER. That is true. I just wanted to mention what the basic purpose of that legislation has been.

With respect to peace in the Middle East, that is an extraordinarily complicated problem in which our legislations with the Soviet Union are both competitive and cooperative and in which the point of direct influence of all of the parties has certain limits, but we do look for Soviet restraints in the Middle East, as we consider Soviet restraint in the Middle East an integral part of détente policy.

Senator BYRD. Mr. Secretary, is it not correct that there has been a significant build up of Soviet tactical nuclear weapons in Central Europe?

Secretary KISSINGER. Over what period of time are you talking about?

Well, at any rate, there has been an increase of Soviet nuclear weapons in Central Europe.

Senator BYRD. Would you comment on the following paragraph written by Mr. James Reston in the New York Times on November 22, 1974. This is the paragraph, "The Soviets cannot be unhappy with the present drift of world events, particularly the political and economic disarray in Europe. They have established a rule that all Communists or socialist governments are off limits for the U.S. but that the rest of the world from Southeast Asia to Cuba is an open hunting ground for them."

Secretary KISSINGER. Well, the disarray to which Mr. Reston refers is not the product of Communist actions or to a considerable extent is not the product of Soviet actions. There is a major crisis in the industrialized nations of the world to produce by inflationary pressures, by complicated domestic situations, by the failure up to now to adjust their relationships to a rapidly altered international environment.

The biggest challenge we face is that most of our difficulties are within our power to solve. These have not been produced by the Soviet Union but could nevertheless be of enormous benefit to our adversaries if we do not solve them.

The energy crisis, the whole problem of the inflationary pressures, the weakening of governmental authorities, are not the direct result of Soviet action but they are very real problems and undoubtedly are not looked at unhappily from our standpoint.

Senator BYRD. Mr. Secretary, does the Department of State have or plan to have a monitoring system to check on the Soviet performance under the Kissinger-Jackson compromise?

Secretary KISSINGER. Yes.

Senator BYRD. You plan to have a monitoring system?

Secretary KISSINGER. Well, we plan to have a monitoring system and I have the impression that Senator Jackson is a pretty good monitoring system, too.

Senator BYRD. How do you monitor a nation of nine million square miles and 240 million people?

Secretary KISSINGER. Let us analyze what the essence of the understanding is.

The essence of the understanding is that there will be no interference with missions, that there will be no harrassment of applicants and that there will be no obstacles to emigration visas as except national security considerations.

Now, I have the impression that the various organizations that are concerned with emigration are in sufficiently close contact with those who want to emigrate for us to be able to obtain a judgment whether in fact there is an interference with applications and whether the rate of emigration is in proportion in the historic proportion to the number of applicants. It is a matter that really I will have an official in the department who will be responsible to whom interested groups can turn on this matter.

But I have talked to the various groups that are interested in this emigration question and they seem to be convinced, not that they can catch every individual case, but that they would know about any substantial violations of this understanding.

Senator BYRD. Mr. Secretary, as you possibly gather, I am a little skeptical about detente and not 100 percent sold on it.

This section of the trade bill ties in precisely with that matter.

Would you tell the committee what com-

mitment or commitments have been made in regard to long-term subsidized credits to Russia?

Secretary KISSINGER. No commitments have been made to the Soviet Union about any long-term commitments, to the best of my knowledge.

No, no commitments have been made.

Senator BYRD. On the question of harassment, which is one of the key points of the Jackson Amendment, is not the entire system of government in Russia based on harassment and terror, as a practical matter?

Secretary KISSINGER. Well, I think the government is more obtrusive than in our country.

Senator BYRD. I will not press the issue.

Mr. Secretary, there is some evidence that Moscow cooperated up to a point, but is it not true that when the Soviet Union actively urged other Arab nations to join in the Yom Kippur war, they violated the basic principles of relations between the United States of America and the USSR signed in May of 1972?

Secretary KISSINGER. You mean after the war had started in some of the exhortations that were then made?

Senator BYRD. Yes.

Secretary KISSINGER. Of course, I would say basically that when the Soviet Union urges other countries to participate in a war any place, that it would be violating the basic principles of the 1972 agreement.

Now then, one has to analyze why the Soviet Union may have done this. But to answer your question, yes, I would say this was a violation.

Senator BYRD. Thank you for that clear-cut answer, Mr. Secretary.

Now what will be the criteria for Soviet fidelity to the Kissinger-Jackson compromise?

Secretary KISSINGER. As I pointed out this morning, Senator Byrd, there are at least three basic questions. Is there any interference with applications? Is there any harassment of applicants? Is there any denial of applications for any ground other than national security reasonably defined?

It is my impression, and I have consulted the groups in this country that have the greatest interest in promoting emigration, that we should be able to get substantially accurate answers to those questions, and if it should turn out that these questions cannot be answered satisfactorily. I would believe that the Administration has an obligation to point this out to the Congress, in addition to the fact that the Congress has a review authority at the end of 19 months.

Senator BYRD. At this point I want for the record to point out and commend the senator from New York, Mr. Buckley, for his trip to the Soviet Union. I am particularly impressed with the fact that Senator Buckley did not spend his time with high government officials, but instead got out among the people. The senator from New York visited with the people, among the Jewish community there, among the German minority there, among dissident groups, and I think he brought back a lot of information.

In an Associated Press dispatch for Moscow dated November 11, 1974, Senator Buckley quoted leading Jewish activists as telling him that the Kremlin has increased its harassment of Jewish dissidents since the announcement in Washington of the Kissinger-Jackson agreement.

Would you comment on that?

Secretary KISSINGER. Well, may I indirectly say, as flattered as I am being bracketed with Senator Jackson, the ultimate agreement was reached between President Ford and Senator Jackson. Nevertheless, I will be delighted to answer the question.

This exchange of letters or the implications of this exchange of letters cannot be expected to go into force until the subject to which it refers comes into being, so I would think that if the claims that are made were still valid after the passage of the Trade Reform bill and the granting of the MFN, this would be a subject of considerable concern which we will bring to the attention of the appropriate authorities.

Senator BYRD. Well, the problem with that, as I see it, the way the compromise amendment is worked out, the waiver can take place, the wavier of the original Jackson-Vanik amendment will take place at the President's option for a period of 18 months and during that period of time vast amounts of credits and guarantees could be extended to the Soviet Union before the Congress would have an opportunity to review it.

Secretary KISSINGER. Vast amounts of credits have not been in the past extended to the Soviet Union and vast amounts of credits would certainly not be extended if we felt that there had been bad faith in any of our understandings.

Senator BYRD. Well, the point I am suggesting is that there may not be evidence of bad faith until after the credits are extended. Once the credits are extended, I assume there is no way to retrieve the credits.

Secretary KISSINGER. I believe what will insure Soviet performance is not the credits but that general interest in the relationships with the United States. If for any reason that should flatten, then if detente should be substantially jeopardized, then I believe the overall performance of what we are discussing here will also be in jeopardy.

As long as this interest is maintained, I think this is our primary point of pressure or attack.

Senator BYRD. I visualize something like what happened with Japan when the United States gave in to the demand of Japan and gave Okinawa back to Japan, which we had by treaty, then we lost all leverage over Japan.

I am glad to say I opposed that treaty giving Okinawa back to Japan. We have lost all leverage over Japan. Once we give these credits, my fear is we will lose all leverage over the Soviet Union.

Secretary KISSINGER. Well, of course, Senator, I do not fully agree with, not only fully I do not agree with you at all about Okinawa, because one could argue without the reversion of Okinawa to Japan our relationship with Japan would have been so mortgaged that we would have lost a lot more leverage than we have.

With respect to the credits, this is not immediately affected by this exchange of correspondence. It is, of course, true if huge credits are extended all at once in one decision that then that will create one situation.

On the other hand, this has not been our past history and this will not be our history in the future.

Senator BYRD. It has been the history in the 13-month period to extend $587 million in credits and guarantees to the Soviet Union.

Secretary KISSINGER. Senator, I would like to review that figure because what sticks in my mind is that we began the examination of these credits in 1972. It is quite possible that the paper work may not have produced the first credit until 1973 or 1974. What sticks in my mind is that the credits were extended in a sense that I am concerned with, that is, in relationship to foreign policy over a period of two and a half to three years, whenever the ultimate decision by the Ex-Im Bank took place.

This is the rate, the manner in which we would expect to proceed in the future.

Senator BYRD. Under the amendment, as I read your statement to the committee this morning, on page 15, under the amendment, with no ceiling on credits, that would mean under the law the Administration could, if it wishes, and you say it probably will not wish, but it could if it wishes under the law extend unlimited credit to the Soviet Union.

Secretary KISSINGER. Well, not exactly, because there is a total limitation, of course, on the amount of Ex-Im credits that can be given.

Senator BYRD. My goodness, that is $25 billion.

Secretary KISSINGER. Even allowing for our normal exuberance, we would not ear-mark them all, we would not earmark them all for the Soviet Union. But we have agreed that there should be very significant consultive provisions with the committee or with the Congress so that the Congress would have an idea of what is ear-marked.

At any rate, it is not our intention to ear-mark unlimited amounts or huge amounts, but we would like to have the ability for flexible credits in order to have some incentives in a situation that is likely to be rather complicated over the next two years.

Senator BYRD. The Jewish leaders told Senator Buckley that the telephone lines over which the dissidents communicated with the West had been cut since Senator Jackson announced on October 18 that the Soviet Government was liberalizing Jewish emigration policies to obtain trade concessions from the Congress.

Would the Jackson compromise propose to deal with a matter of that type?

Secretary KISSINGER. I do not believe that any exchange of correspondence between two Americans could possibly account for all the forms of harassment that an authoritarian state can impose on its subjects.

I believe that to the extent one would have to assume that for this to work there has to be good faith on the part of all of the parties.

So there are no specific assurances with respect to each form of harassment, but there has been a general assurance with respect to harassment, and I believe that we should make an effort to see whether it can be made to work.

I have pointed out in my statement that I did not know how this would in fact work in practice, but we have now reached the point, as Senator Packwood pointed out this morning, where we simply have to make the choice on what gamble we want to take.

Senator BYRD. Mr. Secretary, Sakarov provided Senator Buckley with a list of German origin residents in the Soviet Republic. These Germans were originally residents in the former Soviet Volga German Republic in Eastern Russia. They were deported en masse by Stalin in the Forties. The list was collected by a number of Germans during 1974. Twenty to 30 of these individuals, I am informed, who were involved in the collection efforts were arrested and are now in jail.

All of the families on the list, the signed list, have applied for permission to leave, but were refused.

Sakarov reported to Senator Buckley that the Soviet regime is unwilling to allow them to emigrate because they are more efficient workers in the farms and mines of the region than the local residents.

The list represents about 25,000 to 30,000 individuals.

This is the first of several attempts to collect lists of Volga Germans who will be transmitted to the West when it is available. I have this list which was given to me by Senator Buckley, with these signatures gathered at great cost, personal cost by the way of damage to the individuals who collected the list. Twenty to 30 of them are now in prison.

With your permission, I would like to turn this list over to the State Department for whatever help it might be able to give.

Secretary KISSINGER. I will check on that.

Senator BYRD. Thank you.

Now, is it correct that the Russian Government does not expect to pay for prod-

ucts obtained from the United States by hard currency but, rather, from Russian products in a barter deal?

Secretary KISSINGER. My impression is they will pay for it by currency.

Senator BYRD. Does the waiver in the Jackson compromise apply to all Communist nations or only to Russia?

Secretary KISSINGER. It applies to all nonmarket economies, in other words, to all Communist nations.

I mean the right to waiver applies to all of them, but it will have to be exercised in each individual case separately.

Senator BYRD. But the right to waiver in the compromise applies to all Communist nations?

Secretary KISSINGER. That is right.

Senator BYRD. Including, I think you said this morning, China?

Secretary KISSINGER. That is right.

Senator BYRD. Senator Buckley has recently suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached.

Would you favor or oppose such an ad hoc congressional committee?

Secretary KISSINGER. Will you repeat the question, please?

Senator BYRD. Yes.

Senator Buckley has suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached. Would you favor or oppose an ad hoc congressional committee?

Secretary KISSINGER. I have not thought this through, but my understanding would be to be opposed to it because I am very much afraid systematic intrusion in what is defined by the Soviet Union as a domestic jurisdiction is likely to have a counterproductive consequence.

If I change my mind on this, I will let you know.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

COMMUNITY SERVICES ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, with the understanding that the bill will be laid temporarily aside until no later than the hour of 1 p.m. today, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 14449.

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

The legislative clerk read as follows:

A bill (H.R. 14449) to provide for the mobilization of community development and assistance service and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. The clerk will call the roll.

The second 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 UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I know this will come with some disappointment to the occupant of the chair, but I ask unanimous consent that the Senate stand in recess until the hour of 1 o'clock p.m. today.

There being no objection, the Senate, at 12:31 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MONTOYA).

SUPPLEMENTAL APPROPRIATIONS, 1975—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the supplemental appropriations conference report, which will be stated by title.

The assistant legislative clerk read as follows:

The report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 11, 39, 43, 44, 53, 66, and 85.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered eleven to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Labor-Management Services Administration
Salaries and Expenses

For an additional amount for the Labor-Management Services Administration, Salaries and expenses, $8,150,000, including $1,500,000 to be derived by transfer from Manpower Administration, Program Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered thirty-nine to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Hereafter, with the approval of the Joint Committee on the Library, the Architect of the Capitol may utilize personnel paid from appropriations under his control for performance of administrative and clerical duties in connection with the maintenance and operation of the United States Botanic Garden, to such extent as he may deem feasible.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered forty-three to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $25,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered forty-four to the aforesaid bill, and concur therein within an amendment, as follows:

In lieu of the sum named in said amendment, insert: $9,150,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered fifty-three to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $25,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered sixty-six to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Provided, That the aggregate salaries of all employees detailed on a nonreimbursable basis under the authority of the Presidential Transition Act of 1963, during the period beginning with the enactment of this Act, and ending February 9, 1975, shall not exceed $70,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered eighty-five to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

SEC. 205. None of the funds appropriated by this or any other Act which are available during the fiscal year 1975 for travel expenses, including subsistence allowances, of Government officers and employees may be obligated after the date of the enactment of this Act, at a rate for the balance of the fiscal year which exceeds 90 percent of the budget estimates for fiscal year 1975 for such expenses which were submitted for appropriations or otherwise provided by law: *Provided,* That none of the limitations on travel included in the regular appropriations for fiscal year 1975 shall be exceeded.

Mr. ALLEN. Mr. President, reserving the right to object, that leaves only amendment No. 17?

Mr. McCLELLAN. Amendment No. 17 is not included in this motion. This does constitute all the amendments pending except amendment 17. This will clean the slate, so to speak, as to amendment No. 17, which is subject to debate.

Mr. ALLEN. I have no objection to agreeing to amendment No. 17. I understand that an effort is going to be made to amend the motion of the Senator from Arkansas to concur as to No. 17.

Mr. McCLELLAN. As to 17—I understand. But this particular motion does not include 17. All other amendments are included.

Mr. President, amendment 85, which is in disagreement, is the compromise reached with the House on the Roth amendment, the cutback passed in the Senate on travel expenses for the fiscal year 1975. The conferees were sympathetic to the original proposal but because of many problems and difficulties in administering it and at the same time still maintain essential functions, it became apparent that many exceptions would have to be made under the original proposal. These were considered, but because of the required effort to reach and anticipate all problem areas, the conferees decided to accept the House amendment with no exemption. This amendment as now written would require about a five percent reduction for the balance of the fiscal year. The conferees also discussed the necessity to check further into the travel costs as we

continue with our work in the Appropriations Committee.

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

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I shall make only a few brief remarks to further elaborate upon the very adequate explanation that the chairman of the full Appropriations Committee, Senator McCLELLAN, made yesterday.

The total appropriations allowed in conference for chapter II of the fiscal year 1975 supplemental appropriations bill for the Departments of Labor and Health, Education, and Welfare, and related agencies is $5.8 billion. This sum is $420 million above the budget estimates, $15 million under the total sum recommended by the Senate, and $58 million above the amount allowed by the House.

Mr. President, I ask unanimous consent to place in the RECORD a table showing the comparative figures in detail.

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

Current Status of Chapter II of the 1975 Supplemental

DEPARTMENT OF LABOR—HEW

Budget estimates	$5,421,469,000
Amount in House bill	5,706,800,000
Amount in Senate bill	5,856,042,000
Conference agreement	5,840,542,000
Over the budget request	+419,073,000
Over the House bill	+$133,742,000
Under the Senate bill	−15,500,000

CONFERENCE CHANGES FROM THE BUDGET ESTIMATES

Labor programs	−$2,520,000
Health services	−3,000,000
Health resources	+676,000
Elementary and secondary education	−32,143,000
Impact aid	+315,716,000
Education for the handicapped	+102,500,000
Occupational vocational and adult education	+10,162,000
Library resources	+5,000,000
Salaries and expenses	−718,000
Nutrition for the elderly	+25,400,000
Youth development	−2,000,000
	+419,073,000

Agency and item	Budget estimate	Recommended in House bill	Recommended in Senate bill	Conference agreement	Increase (+) or decrease (−), conference bill compared with— Budget estimate	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
CHAPTER II							
DEPARTMENT OF LABOR							
Manpowe Administration							
Program administration		Not considered	−$1,500,000				+$1,500,000
Comprehensive manpower assistance (by transfer)		Not considered	(−5,600,000)				(+5,600,000)
Labor-Management Services Administration							
Salaries and expenses	$9,650,000	Not considered	6,150,000	$6,650,000	−$3,000,000	+$6,650,000	+500,000
(By transfer)				(1,500,000)	(+1,500,000)	(+1,500,000)	(+1,500,000)
Employment Standards Administration							
Salaries and expenses		Not considered	480,000	480,000	+480,000	+480,000	
(By transfer)	(6,800,000)		(5,600,000)	(5,600,000)	(−1,200,000)	(+5,600,000)	
Bureau of Labor Statis.ics							
Salaries and expenses (by transfer)	(600,000)	Not considered	(300,000)	(300,000)	(−300,000)	(+300,000)	
Departmental Management							
Salaries and expenses (by transfer)		Not considered	(−300,000)		(+300,000)		(+300,000)
Total, Departmen of Labor	9,650,600		5,130,000	7,130,000	−2,520,000	+7,130,000	+2,000,000
(By transfer)	(7,400,000)	( )	(5,900,000)	(7,400,000)	( )	(+7,400,000)	(+1,500,000)
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Health services	5,722,000	3,722,000	1,722,000	2,722,000	−3,000,000	−1,000,000	+1,000,000
Alcohol, Drug Abuse, and Mental Health Administration							
Saint Elizabeths Hospital	1,789,000	1,789,000	1,789,000	1,789,000			
Health Resources Administration							
Health resources:							
1. National health statistics	24,000,000	21,511,000	21,511,000	21,511,000	−2,489,000		
2. Health services research and evaluations:							
(a) Grants and contracts	40,800,000	39,705,000	34,705,000	34,705,000	−6,095,000	−5,000,000	
(b) Research training	1,200,000	1,200,000	1,200,000	1,200,000			
3. Health manpower:							
(a) Health professions student loans	30,000,000	33,200,000	36,000,000	36,000,000	+6,000,000	+2,800,000	
(b) National health service scholarships	22,500,000	21,500,000	22,500,000	22,500,000		+1,000,000	
(c) Nursing student loans	18,000,000	21,800,000	22,800,000	22,800,000	+4,800,000	+1,000,000	
(d) Program management	10,757,000	10,217,000	9,217,000	9,217,000	−1,540,000	−1,000,000	
Total	147,257,000	149,133,000	147,933,000	147,933,000	+676,000	−1,200,000	
OFFICE OF EDUCATION							
Elementary and Secondary Education							
1. Grants for the disadvantaged (title I)	1,885,000,000	1,876,000,000	1,876,000,000	1,876,000,000	−9,000,000		
Advance appropriation	1,900,000,000	1,900,000,000	1,900,000,000	1,900,000,000			
2. Supplementary services	146,393,000	125,000,000	120,000,000	120,000,000	−26,393,000	−5,000,000	
3. Strengthening State departments of education	39,425,000	39,425,000	39,425,000	39,425,000			
4. Bilingual education	70,000,000	70,000,000	90,000,000	85,000,000	+15,000,000	+15,000,000	−5,000,000
5. Civil rights advisory services	5,000,000	5,000,000	5,000,000	5,000,000			
6. Equipment and minor remodeling	28,500,000	15,000,000	28,500,000	21,750,000	−6,750,000	+6,750,000	−6,750,000
7. Nutrition and health	1,900,000		1,900,000	900,000	−1,000,000	+900,000	−1,000,000
8. Dropout prevention	4,000,000				−4,000,000		
9. Support and innovation grants (advance appropriation)	172,888,000	172,888,000	152,888,000	172,888,000			+20,000,000
10. Libraries and instructional resources (advance appropriation)	137,330,000	137,330,000	137,330,000	137,330,000			
Total, fiscal year 1975 appropriations	2,180,218,000	2,054,425,000	2,160,825,000	2,148,075,000	−32,143,000	+93,650,000	−12,750,000
Total, fiscal year 1976 appropriations	2,210,218,000	2,210,218,000	2,190,218,000	2,210,218,000			+20,000,000
School Assistance in Federally Affected Areas							
1. Maintenance and operations:							
(a) Payments for "A" children	223,900,000	223,900,000	223,900,000	223,900,000			
(b) Payments for "B" children	38,900,000	354,616,000	354,616,000	354,616,000	+315,716,000		
(c) Special provisions	14,500,000	14,500,000	14,500,000	14,500,000			
(d) Payments to other Federal agencies	43,000,000	43,000,000	43,000,000	43,000,000			

Agency and item	Budget estimate	Recommended in House bill	Recommended in Senate bill	Conference agreement	Increase (+) or decrease (−), conference bill compared with— Budget estimate	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2. Construction	$20,000,000	$20,000,000	$20,000,000	$20,000,000			
Total	340,300,000	656,016,000	656,016,000	656,016,000	+$315,716,000		
Education for the Handicapped							
1. State grant program	47,500,000	85,000,000	125,000,000	100,000,000	+52,500,000	+$15,000,000	−$25,000,000
Advance appropriation for 1976	50,000,000	100,000,000	100,000,000	100,000,000	+50,000,000		
2. Special target programs:							
(a) Deaf-blind centers	12,000,000	12,000,000	12,000,000	12,000,000			
(b) Early childhood projects	14,000,000	14,000,000	14,000,000	14,000,000			
(c) Specific learning disabilities	3,250,000	3,250,000	3,250,000	3,250,000			
(d) Regional resource centers	9,243,000	9,243,000	9,243,000	9,243,000			
3. Innovation and development	9,916,000	9,916,000	9,916,000	9,916,000			
4. Technology and communication:							
(a) Media services and captioned films	13,000,000	13,000,000	13,000,000	13,000,000			
(b) Recruitment and information	500,000	500,000	500,000	500,000			
5. Special education manpower development	37,700,000	37,700,000	37,700,000	37,700,000			
Total, fiscal year 1975 appropriations	147,109,000	184,609,000	224,609,000	199,609,000	+52,500,000	+15,000,000	−25,000,000
Total, fiscal year 1976 appropriations	50,000,000	100,000,000	100,000,000	100,000,000	+50,000,000		
Occupational, Vocational, and Adult Education							
1. Adult education—grants to States	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
Advance appropriation for 1976	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
2. Ethnic heritage studies			1,800,000	1,800,000	+1,800,000	+1,800,000	
Total, fiscal year 1975 appropriations	63,319,000	63,319,000	69,300,000	69,300,000	+5,981,000	+5,981,000	
Total, fiscal year 1976 appropriations	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
Library Resources							
School libraries	90,250,000	95,250,000	95,250,000	95,250,000	+5,000,000		
Salaries and expenses	718,000		750,000		−718,000		−750,000
Social Security Administration							
Limitation on salaries and expenses	(20,242,000)	Not considered			(−20,242,000)		
Human Development							
1. Nutrition programs for the elderly	99,600,000	125,000,000	125,000,000	125,000,000	+25,400,000		
2. Youth development	12,000,000	Not considered	10,000,000	10,000,000	−2,000,000	+10,000,000	
Total	111,600,000	125,000,000	135,000,000	135,000,000	+23,400,000	+10,000,000	
Total, Department of Health, Education, and Welfare	5,411,819,000	5,706,800,000	5,850,912,000	5,833,412,000	+421,593,000	+126,612,000	−17,500,000
Consisting of:							
Appropriations for fiscal year 1975	3,088,282,000	3,333,263,000	3,493,194,000	3,455,694,000	+367,412,000	+122,431,000	−37,500,000
Appropriations for fiscal year 1976	2,323,537,000	2,373,537,000	2,357,718,000	2,377,718,000	+54,181,000	+4,181,000	+20,000,000
Total, Chapter II	5,421,469,000	5,706,800,000	5,856,042,000	5,840,542,000	+419,073,000	+133,742,000	−15,500,000

Mr. MAGNUSON. Mr. President, the total amount of the Labor-HEW chapter is very large this year because a number of the education programs were not authorized at the time we were considering the regular Labor-HEW bill. Because we had to wait for the action of the authorizing committees, it was necessary to postpone the funding of these programs until this supplemental appropriations bill. I would also like to point out that almost half of the funds included in the supplemental will be used for the 1975–76 school year. Out of the total $5.8 billion in the Labor-HEW chapter, $2.4 billion represents advance appropriations for fiscal year 1976. This is a major initiative in advance funding. The rationale for including these funds in a 1975 appropriations bill instead of a 1976 appropriations bill is that the States and localities will be given more lead time to plan for the use of these school funds. The committee is very hopeful that this action will result in more benefit for each Federal dollar invested.

In the Department of Labor, the administration made an unusual proposal to create a number of minor adjustments, and the committee and the conferees generally agreed with the thrust of these amendments, which would basically begin to implement the new and expanded pension reform legislation as well as increase funding to strengthen the laws prohibiting job discrimination against the handicapped. The conferees also agreed to an amount of $480,000 to reduce the backlog of compensation claims for injured Federal workers.

In the area of health the conferees agreed with the Senate in providing increased educational opportunities for students at medical, dental, nursing, and related schools.

The principal areas of difference between the House and Senate bills involve education programs. Here the Senate conferees were successful in sustaining significant increases in the areas of bilingual education, school equipment and minor remodeling, and education for nutrition and health. The Senate conferees were also successful in sustaining a significant increase for the State grant program assisting in the education for the handicapped. Other Senate increases sustained in conference included grants to States for adult education and ethnic heritage studies.

Mr. President, in closing, let me state that I thought that chapter II of the Senate bill was significant in approaching the problem of funding school programs too late. The conference report before you today provides an amount that should be very helpful, especially in the area of education. The amounts provided for some items are not entirely to my satisfaction or the satisfaction of the Senate conferees. Nevertheless, I believe that there will be adequate funds to meet the necessary supplemental expenses for the Department of Labor and HEW for fiscal year 1975.

HANDICAPPED CHILDREN INFORMATION PLAN

On a related matter, Mr. President, the Congress, in this bill, has provided a substantial increase for education services to handicapped children. However, all the money in the world will not help if we cannot get information on materials and services available out to the parents and children. The committee would expect HEW to come up with a plan for getting this information out on a timely and effective basis. Next year's budget hearings would be an appropriate forum for discussing the Department's plans.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"ELEMENTARY AND SECONDARY EDUCATION

"For carrying out, to the extent not otherwise provided, title I Part A ($3,702,762,000) Part B ($30,538,000) and Part C ($30,000,000), title III ($120,000,000), title IV, Part B ($137,330,000) and Part C ($172,888,000), title V, Parts A and C ($39,425,000), title VII

and sec. 808 of the Elementary and Secondary Education Act, Part J of the Vocational Education Act of 1963, section 822 and section 823 ($200,000) of Public Law 93-380, section 417(a)(2) of the General Education Provisions Act, title IV of the Civil Rights Act of 1964 and title III-A ($21,750,000) of the National Defense Education Act of 1958, $4,350,203,000; *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1975, and shall remain available until June 30, 1976; title I, Part A ($1,882,212,000) Part B ($16,538,000) and title IV, Part B ($137,380,000) and Part C ($172,888,000) of the Elementary and Secondary Education Act, and section 417(a)(2) of the General Education Provisions Act ($1,250,000): *Provided further*, That the Commonwealth of Puerto Rico shall receive grants for the current fiscal year pursuant to sections 121, 122, and 123 of the Elementary and Secondary Education Act of 1965 (as such Act exists on the date of enactment of this Act) in amounts equal to not less than the amounts received by the Commonwealth of Puerto Rico for the fiscal year ending June 30, 1974, pursuant to sections 103(a)(5), 103(a)(6), and 103(a)(7), respectively of the Elementary and Secondary Education Act of 1965 (as such Act existed immediately before the effective date of the amendments made to title I of such Act by the Education Amendments of 1974): *Provided further*, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin, or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

Mr. McCLELLAN. Mr. President, I move that the Senate concur in amendment No. 17.

Mr. ROBERT C. BYRD. Mr. President, on behalf of other Senators, I will have to 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. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that the privilege of the floor may be accorded to Patricia Shakow and Charles Warren, of my office, during the consideration of this conference report on supplemental appropriations.

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

Mr. JAVITS. Mr. President, in due course, the leadership—that is, on both sides of the aisle—will offer an amendment to the amendment which is in disagreement, which will then, if adopted by the Senate, go back to the House as an amendment with an amendment, asking for the concurrence of the House.

The Senator from Massachusetts (Mr. BROOKE) has carefully and in detail pointed out that the language of the conference report on the so-called Holt amendment would virtually nullify title VI of the Civil Rights Act of 1964, for which so many of us expended so much effort and energy, and which was one of the great achievements in the interest of validating the Constitution of the United States; that it would nullify title VI of this landmark Civil Rights Act by restricting the power of the Department of Health, Education, and Welfare to obtain what is essential in the way of information in order to enforce the various unconstitutional discrimination preventions which are built into this law.

If schools cannot be required to classify students and teachers according to race, sex, or national origin, it will be impossible to obtain the basis for any case or to show any pattern or practice, except on the tedious case-by-case method which has been so ineffective in civil rights enforcement generally and which itself brought on the Civil Rights Act of 1964.

The Federal Government, obviously, cannot justify withholding funds for failure to overcome segregation, even if it is segregation on the grounds of sex, leave out the highly controverted and deep American question of color and race, unless it can prove a case, and it certainly cannot prove any kind of generic case, and that is the way these cases develop, unless some such records are kept. It hits programs quite separate and apart from, indeed, remote from, the questions of race and color, because we have the sex problem, which is very widespread, is a major issue in our country, and is dealt with by the Civil Rights Act of 1964.

We have, for example, the problem of bilingual education, where we have just materially increased the amount of the appropriation, because we believe so deeply that those who are Spanish speaking, mainly, should be brought into the great area of American life through having enough stimulation in instruction to gain competence in both languages.

Mr. President, what I think is more important than anything else is to make it clear that we are not voting on a busing amendment, either pro or antibusing. All that we are trying to do, Mr. President, is retain a basis for evidence which is very neatly destroyed if this amendment should remain in the conference report and be agreed on as part of this measure.

Mr. President, there have been some implications that the President of the United States might consider vetoing this bill on the ground that it is a little more money than he would like. I hope he does not do that on a money ground. But, Mr. President, should this amendment be found in the bill that goes to the President, I do not think there is any question about the fact that any President who believes in the Constitution of the United States would be duty bound to veto it, and I hope very much that the President will, notwithstanding the tremendous difficulty it would cause in many directions. We can avoid that, Mr. President, by adopting a course of action recommended by the leadership, to be presented by Senator SCOTT, which we have adopted in other areas, making it clear that we do not seek to invalidate the Constitution. I hope very much that the Senate will go that route in order to do justice, sustain the Constitution, and save this bill.

Mr. HUGH SCOTT. Mr. President, on behalf of myself and the distinguished majority leader and Senator from Montana (Mr. MANSFIELD), I move to concur in the amendment of the House to the amendment of the Senate, with an amendment, as follows, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of amendment numbered 17 in disagreement, strike the period, insert a comma in lieu thereof, and add the following: "except as may be necessary to enforce nondiscrimination provisions of Federal law".

Mr. HUGH SCOTT. Mr. President, this is an amendment to the so-called Holt amendment, which will insure that HEW retains its authority to enforce title VI of the 1964 Civil Rights Act and title IX of the Education Amendments of 1972. Without our amendment, 10 years of work to eliminate discrimination in American life will have been undermined.

The Holt amendment would prohibit the Federal Government from requiring the classification or assignment of teachers or students on the basis of race, religion, sex, or national origin, and the reporting of such information to HEW. Secretary of Health, Education, and Welfare Caspar Weinberger has clearly recognized the dangers in this amendment by stating in a letter to Senator MAGNUSON on December 2, 1974, that although the effect of the language might be ambiguous, in HEW's view "most courts would hold that the amendment ends our basic authority to enforce civil rights laws." The Secretary in his letter, a copy of which has been sent to each Senator, urges us to change this amendment.

I should point out to the Senate that the Holt amendment was considered by us in late November and turned down by a vote of 43 to 37. We are now confronted with substantially the same language on this conference report. The Scott-Mansfield amendment does not attempt to strike out the Holt amendment but seeks to clarify the congressional intent that all Federal antidiscrimination laws are to be enforced. This is a minimum commitment to equal justice under the Constitution which we all should support.

Finally, I should point out that this is not really a busing question, but one that deals with the enforcement of our basic civil rights laws against discrimination. I urge my colleagues to support this amendment which is absolutely essential.

I also offer, and ask unanimous consent to have printed in the RECORD at this point, a letter sent on December 6 to our colleagues by Senator MANSFIELD and myself.

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

U.S. SENATE,
Washington, D.C., December 6, 1974.

DEAR COLLEAGUE: Next week, the Senate will vote on the Conference Report on the Supplemental Appropriations bill. This measure contains language originally proposed by Rep. Holt and adopted by the House which could, in effect, repeal the 1964 Civil Rights Act with regard to education.

The amendment does not really deal with busing and regardless of your feelings on that issue it would be extremely unwise to take

any action which might nullify Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 which forbid Federal payments to schools and colleges discriminating on the basis of race, religion, sex or national origin. The language of the Conference Report would prohibit the Federal government from requiring the classification or assignment of teachers or students on the basis of any of these categories, and the reporting of such information to HEW. As Secretary of HEW Weinberger has stated, without such data, the Department would be unable to make key decisions as to where Title VI and Title IX actions might be needed.

With the full support of the Administration, we have offered an amendment to this provision which would clarify our intent that all Federal anti-discrimination laws are to be enforced while still retaining the Holt amendment's admonition to HEW not to unduly harass schools and colleges. We believe it would be tragic to make such a sweeping repeal of landmark civil rights legislation on an appropriation bill, without any committee consideration, and we urge you to support our amendment next week. Attached is a copy of Sec. Weinberger's letter opposing the amendment.

Sincerely,

MIKE MANSFIELD,
Majority Leader.
HUGH SCOTT,
Republican Leader.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that a letter from the Assistant Attorney General, Vincent Rakestraw, supporting the Scott-Mansfield amendment to the supplemental appropriations bill, be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., December 10, 1974.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter concerns H.R. 16900, a supplemental appropriations bill for fiscal year 1975 which affects, among other portions of the Executive branch, the Department of Health, Education, and Welfare. This bill has been submitted by a committee of conference. The bill presently contains a provision of particular interest to the Department of Justice, with respect to both our responsibilities and those of the federal courts. For this reason, I have written this letter and, also, taken the liberty of sending a copy of this letter to each member of the Committee on the Judiciary of the Senate.

The provision which concerns us is a *proviso*, popularly known as the Holt Amendment, which states:

"*Provided further*, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

It is our understanding that, as expressed in a letter of December 2, 1974 from Secretary Weinberger to Senator Magnuson, this proviso may be interpreted to foreclose the authority of the Department of Health, Education and Welfare to enforce its responsibilities under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Title IX of the Education Amendments of 1972.

While judicial interpretation of this provision cannot, of course, be predicted, our concern involves two potential consequences of the proposed amendment.

First, the Congress has recently expressly and specifically addressed the problems it found in the field of school desegregation by the enactment of the Education Amendments 1974, P.L. 93-380 (approved August 21, 1974). Title II of that legislation, the Equal Educational Opportunity Act of 1974 (see 20 U.S.C. 1701) speaks to equal educational opportunities and the transportation of students. In that legislation, the Congress declared "it to be the policy of the United States that * * * all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin." (20 U.S.C. 1701).

In our view, the proposed amendment is inconsistent with this recent declaration by the Congress. In particular, if the proviso were judicially interpreted as suggested above, the Department of Justice and the federal courts would be required to assume the entire responsibility within the federal government for compliance with constitutional provisions and federal laws concerning school desegregation. This would both require a substantial increase in the resources of the Department of Justice to discharge this function, and would impose on the federal judiciary a great increase in the demands placed on it since, under the provision, actions concerning school desegregation could be taken by the Executive branch only in federal court.

Second, the Holt Amendment raises constitutional questions of importance which, in our judgment, have not yet been sufficiently considered. The effect of the Amendment, if it is interpreted as suggested above, would be to negate Title VI of the Civil Rights Act of 1964 with respect to enforcement authority of HEW, but only in the area of education. Such a selective limitation, especially given the particular history of civil rights provisions, might raise constitutional questions. In our judgment, these issues should be thoroughly explored and considered before a proviso such as this is enacted.

To avoid these difficulties, we suggest you might consider making clear, by amendment or otherwise, that the proviso is not intended to affect any actions or proceedings designed to implement the non-discrimination provisions of federal law.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. VINCENT RAKESTRAW,
Assistant Attorney General.

Mr. JAVITS. Mr. President, I suggest that we should have a rollcall on this particular important amendment by the leadership, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, in behalf of the Senator from South Carolina (Mr. THURMOND) and myself, I send to the desk an amendment to the amendment of the Senator from Pennsylvania and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the amendment, strike the period, and add the following: "upon a determination by a court of the United States that such discrimination exists."

Mr. HELMS. Mr. President, as I say, I have submitted this amendment in behalf of the distinguished Senator from South Carolina (Mr. THURMOND) and myself.

The amendment that we are offering is very clean and straightforward. It simply provides that none of these funds shall be used to require any school system, as a condition for receiving grants and other benefits from the appropriations in this bill (H.R. 16900), to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin unless a court of the United States has first determined that discrimination on the basis of such criteria, in fact, exists in that school system.

The purpose and intent of this amendment is to insure that before the Department of Health, Education, and Welfare takes any action—including, but not limited to, withholding funds—regarding any school system concerning any possible discrimination, there must first be a determination by a court of the United States that such discrimination exists. If there is such a determination by a Federal court and if the appellate process has been exhausted, then, of course, HEW has the full authority granted it under previous congressional enactments. However, under this provision, HEW may not act summarily without a court determination.

This provision simply affords our school systems a fundamental American right—the right to be presumed innocent until proven guilty and the opportunity to have its day in court. I would not deny this due process to any man, and I certainly would not deny it to the schoolchildren of our country.

I urge the adoption of this amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment presented by the Senator from Pennsylvania (Mr. HUGH SCOTT).

The yeas and nays were ordered.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is there a previous order as to a voting time today?

The PRESIDING OFFICER. There is none.

Mr. HELMS. Mr. President, I ask unanimous consent that the vote on my amendment to the amendment not occur prior to 2 o'clock.

Mr. ROBERT C. BYRD. Mr. President, I wish the Senator had cleared that matter with the leadership on both sides. Another matter is to come before the Senate at 2 o'clock today.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I must object.

Mr. HELMS. I will withdraw the request.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) is on his way to the Chamber, and would like to address himself to this amendment. I hope the leadership will allow some time for those comments by the Senator.

The PRESIDING OFFICER. There is no time limitation.

Mr. ROBERT C. BYRD. Mr. President, I may have misunderstood the Senator's request. Will he state it again?

Mr. HELMS. We do have a previous order? We had a previous order as to voting on this amendment?

The PRESIDING OFFICER. There is no previous order.

Mr. BROOKE. The request was to defer the vote on my amendment to approximately 2 o'clock.

Mr. ROBERT C. BYRD. Then I did understand the Senator correctly. I would have to object to that.

Mr. BROOKE. Mr. President, as I understand, this matter was to be taken up at 1 o'clock without any unanimous-consent agreement, and the vote would then follow the vote on the Rockefeller confirmation. Is that not correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BROOKE. And there is no time limitation on any amendment, and no unanimous-consent agreement for any time for any vote on any amendment?

Mr. ROBERT C. BYRD. The Senator is correct. Let me state to the distinguished Senator from North Carolina, I have no objection to voting on the amendment now. I just want to renew our understanding of the fact that at 2 o'clock today the Senate will go into executive session to consider the nomination of Mr. Rockefeller. Debate will ensue thereon, and the Senate will vote on the nomination at 3 o'clock.

Mr. BROOKE. Is it the Senator's desire to have a vote on this amendment prior to 2 o'clock?

Mr. HELMS. Not necessarily. I am mainly interested in the Senator from South Carolina (Mr. THURMOND), who is on his way to the Chamber, having enough time to consent.

Mr. BROOKE. So we will just talk on it, and then come back to it after the Rockefeller nomination?

Mr. ROBERT C. BYRD. That is correct.

Mr. JAVITS. Mr. President, the Senator from Massachusetts will shortly be speaking in opposition to the amendment to the amendment. As I was here when it was read, I would just like to address one or two thoughts to it, that will take a very short time.

Mr. President, the real issue of this debate and the vote will be whether or not any residual power shall exist in the Department of Health, Education, and Welfare with respect to the enforcement of the Civil Rights Act of 1964, because all the amendment does is say that only the courts may, when they find unlawful segregation, order facts and figures, et cetera, to be produced, which would be inhibited by the Holt amendment.

That defeats the scheme of enforcement devised by Congress in 1964, and also introduces elements of social instability, because you can have tremendous reactions, social unrest, demonstrations, and even riots if they have to wait 2, 3, 4, or 5 years until the court eventually decides before getting any facts and figures on which to base any action under the Civil Rights Act of 1964.

So, while I know the Senator offering the amendment meant it to be an olive branch of a sort, all it does is lock in the very purpose of the Holt amendment, and this is something which we must, in all good conscience, be against, as it destroys the whole fabric of the legislation which we constructed in 1964, with all the attendant dangers and difficulties which we sought to deal with when we enacted the Civil Rights Act of 1964.

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

Mr. JAVITS. I yield.

Mr. BEALL. I can appreciate the opposition to some aspects of the Holt amendment, but I think there also should be concern about the fact that HEW in many instances, under cover of promotion of civil rights, in my opinion is harassing local school systems in asking them to produce the information that is not readily available, and which, as a matter of fact, is very difficult and often very expensive for them to provide, and threatening, if they do not provide this information in an unreasonably short period of time, to cut off their funds.

It seems to me there should be some balance in all of this, and I would like to ask the Senator if there is some way that we could develop language in this bill to provide the kind of balance that some of us think is necessary, on the one hand assuring that we are not going to have segregation in the school systems, but on the other hand assuring also that the Department of Housing, Education and Welfare, in an effort to impose Federal control over the operation of what should be locally operated schools in an effort to increase the powers of the Federal bureaucracy over local and State governments, is not going to use civil rights as a cover for carrying on these kinds of actions that they seem to be embarked upon in my own State, which we alluded to when we discussed this matter on November 19, 1974, on the Senate floor—see CONGRESSIONAL RECORD, pages 36558–36564.

Mr. JAVITS. If I may just answer that, and then I would like to turn it over to Senator BROOKE. There are four ways which we have. One is the power of legislative oversight. My colleague serves on the committee which deals with education, and we have said before, and I say again, I am the ranking member, and I will work with him hand in hand to have a hearing on any such arbitrary exercise of power. We generally can correct it that way.

The second way is through appropriations and appointments. We have to confirm in our committee all nominees to that particular department. We deal with authorizations for appropriations, and we have the power on the floor respecting appropriations. So that is item No. 2.

The third item is the courts which are available to anyone who feels he is being harassed or improperly treated, even by an interlocutory order of injunction.

The fourth is the public forum. Senators get up here, as the Senator from Maryland has, and denounce a Government department or a Government bureaucrat, the press, radio, television, local citizenry, zero in on that and, generally speaking, it is a very effective way.

Now, there may be others, but there are at least four ways.

I yield.

Mr. BEALL. May I comment on those four points before we get into further discussion? I appreciate those suggestions, and I appreciate the offer the Senator made several weeks ago when we were discussing this matter to have a meeting of the Education Subcommittee to look into it, and I think it should be done regardless of the outcome. But I would also point out that legislative oversight generally takes place after the fact, and in the instances in which I have some concern it is after the fact.

The legislative oversight might be helpful in preventing excesses in the future but, as a matter of fact, the excesses have already occurred, so this is an after-the-fact operation so far as that remedy is concerned. It also does not spare a district of the work and expense that some GS–12 might demand. Apparently, HEW feels they have authority to demand any and everything without even first determining the validity of individual complaints.

Mr. JAVITS. Mr. President, may we ask the Senator from Washington, is the committee opposed to the Holt language? What is the committee's position?

Mr. MAGNUSON. Mr. President, this is the item in the Labor-HEW chapter of the bill which has caused a great deal of controversy over the last few weeks. This item is referred to as the Holt amendment and deals with the classification of students and teachers in elementary schools.

There has been a great deal of confusion on this matter—and I would like to try to clear the air for the Members.

When the so-called Holt language was first added to the supplemental bill on the floor of the House, many were not aware of its real impact. As is our usual procedure, the Senate committee asked HEW to provide a clear, factual explanation of the language as well as its effect on HEW programs. At this point, the Department transmitted a document—which I will place in the record—which said that some portions of the language were damaging, while other parts would not be interpreted to have any effect on the civil rights program. This is HEW's own document—and it was prepared in the Office of the Secretary. I ask unanimous consent to have printed in the RECORD this document.

The PRESIDING OFFICER. Without objection it is ordered.

(See exhibit 1.)

Mr. MAGNUSON. The Members will recall that the Senate committee recommended deletion of the House language on the grounds that this does not belong on an appropriations bill. This is a complex legislative issue that should be dealt with separately. The majority of the Sen-

ate agreed with the committee's position and did not restore the language.

During the conference session on the supplemental, the House conferees offered a compromise. This compromise was based on the document HEW prepared. Although the Senate was somewhat reluctant to accept any compromise, it was obvious that support in the full House made it necessary. The agreement was reached to knock out the damaging language.

No sooner had the conferees reached agreement when HEW reversed itself and Secretary Weinberger rushed up a new piece of paper—with a new interpretation of the language. This was as much a surprise to me as it was to everyone else.

I ask unanimous consent that this document may be printed in the RECORD.

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

(See exhibit 2.)

Mr. MAGNUSON. I am aware that some Members wish to either modify or delete the language in question—and send it back to the House. Considering all the confusion that HEW and others have caused on this issue, this might be the best, most prudent course of action.

I would hate to see a provision that may carry such a profound impact, be passed under a cloud of confusion.

Many people might be for the Holt language, or some of us against it, including the Senator from Massachusetts and myself, but we just though it did not belong on this appropriation bill.

EXHIBIT 1

EFFECT OF THE HOLT AMENDMENT

The Holt amendment to the Supplemental Appropriations Act would prohibit the use of any funds appropriated under the Act to compel any school system, as a condition to receiving funds under this Act, to classify teachers or students by race, religion, sex, or national origin; to assign teachers or students to schools for reasons of race, religion, sex, or national origin; or to prepare or maintain any records, files, reports, or statistics pertaining to those classifications.

This amendment would adversely affect civil rights enforcement with respect to the programs included within this Supplemental Appropriations Act. Perhaps the most damaging portion of proposed amendment is the clause prohibiting the Department from compelling school districts to prepare and maintain records pertaining to the race, religion, sex, or national origin of students and teachers. Such records are essential to identify discriminatory practices by school districts receiving Federal financial assistance and to monitor the elimination of such practices. Without such data the Department will be unable to make responsible enforcement decisions without a prohibitive increase in enforcement personnel and attendant costs.

Furthermore, depriving the Department of the means of systematically obtaining from school systems data concerning race, sex, or national origin will impede the congressional purpose in a number of programs for which funds are appropriated under this Act. For example, in providing assistance to school districts for dealing with problems incident to desegregation (42 U.S.C. 200c–2), the Department would virtually be required to obtain such data in order effectively to carry out the congressional purpose of the statute. Similarly, data regarding national origin is necessary for the Department in administering the Bilingual Education Program under title VII of ESEA.

The amendment also prohibits the use of funds to compel the assignments of students and teachers "for reasons of race, religion, sex, or national origin". Although it is not clear what particular activities were intended to be prohibited by this language, we do not read the language to prohibit the Department from requiring school districts to take steps to eliminate desegregation and remove the effects of past discrimination. To so read the language would imply a present purpose by Congress to repeal, in significant part, title VI of the Civil Rights Act, title IX of the Education Amendments of 1972, and section 204 of the Education Amendments of 1974, as those provisions relate to the programs for which funds are appropriated under this Act. Consideration of race in developing and implementing remedial action has long been held by the courts as well as by this Department to be an essential element of programs designed to ensure compliance with the Equal Protection requirements of the Fifth and Fourteenth Amendments, title VI, and similar statutes. Identical considerations would apply to the use of data related to sex, religion, and national origin in correcting discrimination on those bases.

EXHIBIT 2

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 2, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor and Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Supplemental Appropriations bill for fiscal year 1975 (H.R. 16900) as reported out of the Conference Committee contains the following proviso relating to the classification and assignment of teachers and students for reasons of race, religion, sex, or national origin:

"Provided further, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

Although the effect of the above language is somewhat ambiguous, in our view most courts would hold that the amendment ends our basic authority to enforce civil rights laws, particularly title VI of the Civil Rights Act of 1964, which prohibits use of Federal funds for programs that discriminate as to race, color, or national origin, and title IX of Educational Amendments of 1972, which carries a similar prohibition with regard to sex discrimination in education programs.

Although the Conference deleted language from the original Holt Amendment that would have prohibited the Department from requiring school systems to prepare or maintain "any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students", the prohibition relating to the classification of students and teachers was left intact. That provision would prohibit the Department from requiring grantees to collect and report certain statistical information relating to the treatment of minorities. Without such information the Department would be unable to make the key decisions as to where to direct our investigative resources under titles VI and IX. Nor would be be able to investigate the numerous complaints of discrimination against minorities and women without access to data classifying students and teachers.

In addition to those problems, however, the above proviso would prohibit the Department from compelling any school system, as a condition to the receipt of Federal funds, to "assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin". Although this language is somewhat ambiguous, in our view it would restrict the Department from enforcing the requirements of titles VI and IX in those cases where a reassignment of teachers or students might be necessary to eliminate discriminatory assignment practices.

This is a highly complex legal issue and one that is certain to be presented to the courts. If the courts give full effect to the proviso, the Department could not carry out its responsibilities under titles VI and IX. Doubtless there are various interpretations courts could adopt; but it might take two to three years to get a final interpretation. In the meantime we could not violate the Holt Amendment and therefore we would not be able to enforce titles VI and IX to the extent indicated.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. JAVITS. The Senator himself has joined in this amendment, has he not?

Mr. MAGNUSON. I have joined with the Mansfield-Scott amendment.

Mr. BEALL. This is very interesting, but I would like to pursue the original line of questioning.

Mr. JAVITS. Mr. President, I yield to the Senator from Massachusetts.

Mr. BROOKE. As I understood the committee vote, we voted against the Holt amendment not just because it was legislation on an appropriation bill but also because we opposed the Holt language on its merits.

Mr. MAGNUSON. That was my position.

Mr. BROOKE. That was your position, my position, and that was the position of the majority.

Mr. MAGNUSON. That was my personal position.

Mr. BROOKE. It came up on the floor of the Senate, where there was a lengthy debate and a vote rejecting it. The Senate's position was made perfectly clear. Then it went to conference where unfortunately the House language was inserted again. And here we are now again for the second time.

Now, if we can get to the Senator's question.

Mr. BEALL. I want to comment on the further suggestions made by the Senator from New York. He suggested further that we have the power of appointment.

I would suggest that that is true. Appointments come up here for confirmation periodically.

In the case in which I have some interest, representing the State of Maryland, we had meetings between the local school officials and the proper appointed department heads. But the word never seems to get from the executive suite down to the third floor where the bureaucracy is or up to Philadelphia where the regional office is because what was agreed to at one point in a meeting was not implemented in the actual carrying out of the policies. So that is not a very good answer to our question either.

The Senator suggests the courts. Well, the matter now is in the courts because the school board, after being harassed by this bevy of Government officials, fi-

nally has asked that it be taken to court because that is the only place they can get a resolution.

Finally, the Senator has suggested there is public forum. Sure there is a public forum, that is what this place is, and that is what we are trying to do today. But it seems to me we ought to be able to provide an answer to a specific situation where there has been unnecessary harassment on the part of the Federal bureaucracy, and I am suggesting——

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

Mr. JAVITS. I have the floor, but I yield to the Senator.

Mr. BROOKE. If the Senator will yield, as I recall the Senator is very much concerned about the alleged harassment in Anne Arundel County in Maryland.

Mr. BEALL. That is correct, and other instances in Maryland.

Mr. BROOKE. That is correct.

After the defeat of the Helms amendment, the Senator from Maryland proposed an amendment of his own on the floor of the Senate.

We had a very lengthy debate and, as I recall, we also asked for a quorum call so we could possibly work out some language which would take care of the rather unique condition which we felt might exist in Anne Arundel County.

Now, at that time we tried to have a colloquy on the floor which would make legislative history so that HEW would understand that we would not tolerate harassment from what the Senator from Maryland has called, the bureaucrats of HEW, not only in Anne Arundel County but any place in the country.

I thought we gave all the assurances we could possibly give to the Senator from Maryland that all of us would do whatever we could to see that HEW got the message loud and clear, and if there was harassment in Anne Arundel County that it would cease and desist.

The Senator insisted at that time that this matter be taken to a vote; he took it to a vote, and the amendment was defeated. But we still wanted the subcommittee to have hearings, so that the subcommittee would use its influence, and everyone else would use their influence.

In addition to what the distinguished Senator from New York has said about protections, I just want to point out to the Senator from Maryland the letter which was signed by HUGH SCOTT and MIKE MANSFIELD, the majority and minority leaders. I would like to point out just the third paragraph of that letter written on December 6, 1974, pertaining to the Scott-Mansfield language, which said:

> With the full support of the Administration, we have offered an amendment to this provision which would clarify our intent that all Federal anti-discrimination laws are to be enforced while still retaining the Holt amendment's admonition to HEW not to unduly harass schools and colleges. We believe it would be tragic to make such a sweeping repeal of landmark civil rights legislation on an appropriation bill, without any committee consideration, and we urge you to support our amendment next week. Attached is a copy of Sec. Weinberger's letter opposing the amendment.

I would point out that it is the intent of the majority and minority leaders that there be no undue harassment of schools and colleges by HEW or any other Federal bureaucrats.

So I think that, in addition to what the distinguished Senator from New York has said, with the adoption of the Scott-Mansfield language there would be a protection which the Senator desires to have for Anne Arundel County or any other counties that might feel they are being harassed by HEW.

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

Mr. BROOKE. Yes.

Mr. BEALL. I appreciate the Senator's concern for this county in Maryland, and other counties in similar situations around the country.

I am skeptical, however, of HEW's ability to hear because I do not think they get the message unless we write it into the law, because there have been other attempts to send messages to HEW to try to get them to apply their policy in a balanced manner equally across the country, but I do not think these attempts have succeeded.

What concerns me now is the fact that as well intended as might be this language, the so-called Scott-Mansfield language, it allows HEW to do almost anything they want to do, because they can go in and ask for any statistic, they can require any school board to spend any amount of time, require the labor of any number of people in compiling data that they say, that one employee down at HEW says, is needed to enforce nondiscrimination provisions of the Federal law.

Mr. BROOKE. Short of harassing any school board.

Mr. BEALL. If the Senator will remember our discussion of a few weeks ago, I chronologically laid out the situation in this one county in the State of Maryland where vague complaints were made to HEW about disciplinary procedures in one of the schools. It so happened that the school had a black principal.

HEW never has investigated that complaint or determined the validity of the complaint; instead, they have embarked upon this pilot investigation, requiring the county to compile all the information, and; they have threatened the county with the loss of Federal funds.

I pointed out at one point they sent the county school superintendent a letter and said, "If you do not furnish this information within 15 days, you are going to lose your Federal funds."

The school superintendent came to us, and we asked for a clarification of HEW, and it took HEW 30 days to reply to our letter.

We have had further instances where they have made requests and it was determined by the school people in Anne Arundel County that as of now it would require six administrators working full-time for 6 months to furnish HEW with all the information they were requiring and they have still yet to make a determination on the original charge.

If this is not harassment, I do not know what it is. This is an example of bureaucracy being unreasonable and I think in this particular legislation there is a great big loophole where one bureaucrat, one employee downtown, can drive a wedge and require the local school system to come up with any information that he thinks he needs and which may not necessarily be needed to help enforce the Federal law.

Again, I think the civil rights cause has been a very noble fight. I think we have made tremendous progress in the last 20 years in this county to assure that people of differing races and religions get equal treatment under the law, but I do not think we ought to allow the civil rights laws to be used by bureaucrats who are anxious to broaden their own areas of responsibility, to be used as a cover to bring about more Federal involvement in the operation of local school systems.

I am concerned that we do not have the proper balance today. I do not want to undo in any way what has been done over the last 20 years with the tremendous strides which have been made, but I do want to make sure we keep our eye on the road, that we fight discrimination but not allow Federal bureaucrats imposing unreasonable requests on local school systems.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes, I am happy to yield.

Mr. BROOKE. There is nothing which the Senator has said that I cannot agree with wholeheartedly, and I do not believe the Senator can feel that by the adoption of the Helms amendment we can continue to make the great strides in progress in civil rights that the distinguished Senator from Maryland has said that he so strongly supports.

I believe the Senator from Maryland when he says that. I have the greatest respect and admiration for him and his integrity when he says he applauds the fact that we have made great progress in civil rights.

Mr. BEALL. And I hope I have been a part of that progress.

Mr. BROOKE. And he has been a part of it and I commend him for it.

But, certainly, the Senator from Maryland must understand that if we adopt the Helms amendment we are taking a giant step backward in the whole field of the enforcement of civil rights.

Now, what language does the Senator from Maryland have that would give him the protection that he so desires to see that there would be no harassment? And I do agree that there should not be harassment. I do not want to see the Federal bureaucracy harass anybody in the name of civil rights.

I think the Senator is absolutely correct that if we had such legislation I would be voting for it myself. But what I am saying to the Senator is that we have tried to establish, by the colloquy on this floor, legislative history to make clear the intent of this Congress to HEW, and to any other Federal bureaucracy. But we also want to make it clear that we want to enforce the civil rights laws that are on the books, and certainly not take away from that Federal bureaucracy, and particularly from HEW, the only tools with which they can work in order to enforce civil rights.

I have great respect for JESSE HELMS;

he is a friend of mine. We debate on the floor and I understand what he wants to do, but all I am saying to him is this, that if we do not have the tools with which to work, then the civil rights law is a nullity.

How can one enforce the rights of women if we cannot tell how many women there are?

How can we enforce the rights of blacks or Indians or anybody else if we *cannot tell how* many there are?

And the Helms amendment would take away from us the opportunity to get that data and that information which is so essential in the enforcement of civil rights laws.

If the Senator has any language that would stop harassment, I am for it. But we have not come up with it and it certainly is not contained in the Helms amendment or any other amendment that has been suggested on this floor.

Mr. BEALL. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. BEALL. I agree it is important that data be collected. I think it is very important that this be done. But, at the same time, I think that commonsense must be employed that there has to be balance in all this and I think we have slipped over to the other side now. I think we are moving into the area of imbalance.

I do have some language, as a matter of fact——

Mr. BROOKE. How would the Senator do it? How would the Senator say we can enforce the civil rights law if we are unable to accumulate and to keep records and have the data which is so essential?

Mr. BEALL. I think we should establish administrative procedures and guidelines so the people in the school systems have another chance to refute these charges.

As it is now, they can only turn in desperation to the courts. This is very lengthy and expensive, and a last resort.

There is a need for adequate administrative procedures for school systems to present their case to the Department of Health, Education, and Welfare. They are at the mercy of the bureaucrats who threaten them with loss of Federal funds unless they do exactly what the bureaucrat wants them to do, and that is not always the best thing that should be done, nor is it always necessary to promote the cause of civil rights.

I am concerned that we do not have this kind of balance and I think we have seen recently the kind of excesses that do a great injustice and undermine the cause of civil rights.

Now, I will suggest that at the conclusion of the Scott-Mansfield language we add a sentence, and to some extent this is taking care of the problem in which I have an interest, at least it will provide some restraint.

At the conclusion of the Scott-Mansfield language:

Provided, however, That none of the funds contained herein shall be used to compel any school system, as a condition for receiving grants and other benefits, to participate in any pilot investigation of the problems of discrimination in disciplinary action.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes.

Mr. BROOKE. Is that not the identical language that the Senate voted upon and defeated on November 19, 1974.

Mr. BEALL. It most certainly is. The Senator has a very good memory. I congratulate him.

Mr. BROOKE. So the Senator is asking to reconsider an amendment defeated by the Senate less than 3 weeks ago?

Mr. BEALL. Yes, I am. The Senate has done this on many occasions.

Mr. BROOKE. The Senator has not amended that language at all?

Mr. BEALL. No, I believe the Senate deserves another chance at this.

Mr. BROOKE. This is really a motion to reconsider the Beall amendment, is that correct?

Mr. BEALL. Well, not really, it is in a different context and circumstances.

Mr. BROOKE. But it would have the same effect?

Mr. BEALL. It would have the same effect; it is the same amendment.

Mr. BROOKE. So the Senator did not learn anything from the previous debate and colloquy?

Mr. BEALL. The Senator from Maryland learned a lot from that debate, that probably there is more support for his position than at that time because there were very few people interested in it at the last date. Many felt it was only a local matter, but now realize its national implications.

Mr. BROOKE. I do not see too many more interested in it today than before.

Mr. BEALL. The Senator from Maryland has also not seen that HEW has shown much interest in our discussion, either, and no improvements have been forthcoming since our previous debate.

Mr. BROOKE. I told the Senator from Maryland that I would accompany him—and others said they would do the same thing—and walk down and have Caspar Weinberger meet with us to help his unique situation in Anne Arundel. I do not believe it exists anywhere else.

Mr. BEALL. There are currently no other pilot studies in effect, that I know of, pilot investigations of the problems of discrimination in discipline in the country, although some are contemplated, and I think this is one place where we can say to HEW, "Stop, wait a minute, get some direction from Congress" before proceeding down this road, because they are overstepping the bounds.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes.

Mr. BROOKE. I certainly—and I think the Senator understands—did not intend to be facetious when I asked the Senator had he not learned anything from the debate of several weeks ago.

The only thing I point out to the Senator is: Has he not seen that his language would just do almost entirely the same thing that the distinguished Senator from North Carolina would do under his amendment?

Mr. BEALL. No, because my language would stop him from doing something they are about to do in one instance, keep them from spreading this same abuse around the country until Congress has had a chance to speak out on this issue.

It would give us the opportunity to hold the hearings that have been suggested by the Senator and the distinguished Senator from New York. It would give Congress an opportunity to speak on this issue before HEW took unilateral action that may or may not be desired. It will give us the opportunity to determine if we want county's to use education resources and information collecting massive data, before HEW concludes its investigation of a single complaint.

That is the intent of my amendment.

Mr. BROOKE. If the Senator will yield, it seems to me that the only evidence we have of any alleged harassment is that which the Senator from Maryland refers to, which takes place in Anne Arundel County, Md. If that is true, it is most regrettable. But the hearings, if I understood correctly, would be to determine whether there was harassment in Anne Arundel County, and whether there was harassment in any other State in the Union.

I thought that is what we had hoped to achieve in the hearings, and then see what could be done to stop that harassment.

Mr. BEALL. I think we were to go a little further. It was my understanding that we were trying to determine whether there was a discrimination in disciplinary practices based on mere statistical differences.

Mr. BROOKE. That is right.

Mr. BEALL. I believe there should be some determination made of the individual complaints before we have HEW requiring school systems to turn themselves inside out to meet certain conditions imposed by unreasonable people.

Mr. BROOKE. If my distinguished colleague believes that all these things should result from the hearings, then why is he so insistent upon having his amendment to change the law voted upon now, rather than wait until such time as we do have the hearings? The effect of the Senator's amendment, as is the effect of the Helms amendment, would be to change existing law. The only reason for changing existing law is that the law is not working or is not working well, or that you have some legislation that would improve upon it.

Mr. BEALL. I believe my language is temporarily improving upon the law. HEW is embarking on new pilot investigations. It gives the Congress the chance to have the kind of oversight that is necessary to determine if excesses are being carried out.

Mr. BROOKE. But we have had no opportunity to have hearings to determine, No. 1, whether there are excesses; No. 2, what should be done if there are excesses.

Mr. BEALL. I believe the Senator has the cart before the horse, using a figure of speach.

Mr. BROOKE. The horse is present legislation, is it not? The existing law is the horse, as I understand it. The cart, it seems to me, that the Senator is coming along with is that he wants to change existing legislation.

I want to know why the Senator wants

to change existing legislation now before we know what is best.

Mr. BEALL. I want to maintain the thrust on integrating the schools and making sure that people of all races, creeds, and colors are treated the same all over this country. I also want to prevent this bureaucracy from intruding into the operation of the local school systems to the point where the local school systems have lost control.

I want to keep them from making unreasonable requests of local school administrators. I want to keep them from requiring that 6 administrators spend 6 months of their time coming up with some inane information that somebody thinks might be useful at some future date.

I believe this is too costly a process to impose upon already hard-pressed local school districts.

I feel the Congress ought to speak out on that before we give a blank check to HEW to go ahead and embark on these dreams that they have.

Mr. BROOKE. Under existing law, we have already given authority, power, and responsibilities to HEW. HEW is carrying them out.

My colleague from Maryland is saying that at least in Anne Arundel County HEW is not carrying out the legislation in a proper and acceptable manner. Is that correct?

Mr. BEALL. That is correct. I think there are other examples of this across the country. I do not believe the Congress is exercising oversight over HEW.

Mr. BROOKE. The Senator says he thinks there are other examples but he has no evidence of that. Is that correct?

Mr. BEALL. Yes, we do. We have had examples in other discussions before the Education Subcommittee and in other discussions in the Chamber. We have put examples into the RECORD. A couple of weeks ago the Senator and I discussed this matter in the Chamber.

Mr. BROOKE. Why did my distinguished colleague agree, then, to narrow his language so that it would only include Anne Arundel County, if he knew that the situation existed in other areas?

Mr. BEALL. If the Senator will remember our discussion, I declined the offer to use the words Anne Arundel County, Md.

Mr. BROOKE. It was not my offer.

Mr. BEALL. It was one that the Senator appeared to agree to. If the Senator will remember our discussion of a couple of weeks ago, one of our colleagues came to us and said, "Will you accept the words 'Anne Arundel County'?" I said, "No."

The Senator indicated he might accept Anne Arundel County. I want this to apply countrywide. Just because we have an example in Maryland, I believe we should restrain HEW from having the similar actions all over the country until the Congress has had the opportunity to speak out.

Mr. BROOKE. Even though the Senator does not know that this situation exists anywhere else in the country, other than in Anne Arundel County?

Mr. BEALL. The Senator from Maryland has reason to believe, because of the testimony he heard from other Senators on the day that the Senator and I discussed this matter, that HEW is contemplating similar action in other States.

Mr. BROOKE. Does the Senator want us to legislate on what he has reason to believe someone is contemplating doing?

Mr. BEALL. Yes; because, in my experience in dealing with the bureaucracy, I believe we have to be concerned about what we know them to be contemplating doing.

Mr. HUMPHREY. Will the Senator yield?

Mr. BROOKE. I shall yield to my distinguished colleague from Minnesota, but first let me say that I hope that the Senator, who believes so strongly in civil rights, recognizes, unlike many others, that this amendment is not a busing amendment or an antibusing amendment. And I hope that he will not jeopardize the progress that has been made in the field of civil rights, of which the Senator is justly proud, forcing his amendment today merely to take care of Anne Arundel County where he has evidence that there has been harassment by some bureaucrat——

Mr. BEALL. Bureaucrats.

Mr. BROOKE. Bureaucrats, two or three bureaucrats in Anne Arundel County. I do not believe that the Senate will jeopardize our civil rights laws, because of that possible harassment by two or three bureaucrats in Anne Arundel County, Md. I just do not believe it.

Mr. BEALL. If the Senator will yield, I appreciate his comments. He is oversimplifying the situation.

Mr. BROOKE. I do not believe I am.

Mr. BEALL. I believe the Senator is. I think the Senator has failed to recognize that this is what I consider to be a very dangerous step on the part of the bureaucracy to use civil rights, the good name of civil rights, in their efforts to collect more responsibilities and authority into the central government represented in HEW in Washington. I think we ought to have some check on this. I believe the Department is being unreasonable.

It is important, to the extent that we can, that we try to preserve the ability and the authority of local people to maintain control over the operation of their schools in the counties and the States across this country. I think that my amendment in no way jeopardizes the splendid efforts that have been made to achieve racial balance in this country. It only provides some restraint on an overzealous Department in imposing further burdens on already hard-pressed people. It would require that they come before the Congress and tell us what they are about with respect to their pilot investigations and what procedures will be used.

Mr. BROOKE. The hour of 2 o'clock is close upon us. I would just like to say to my distinguished colleague that I think that this has been a very healthy and rewarding colloquy, because it assures me that my distinguished colleague from Maryland will vote against the Helms amendment. Obviously, the Helms amendment does not do what my colleague wants done.

It certainly would not address itself solely to the HEW bureaucracy.

It assures me also that my colleague wants to continue the great progress that we have had in the field of civil rights. I think that after the confirmation of Gov. Nelson Rockefeller we will have an opportunity, when the Scott-Mansfield language is brought before the Senate and a possible amendment to that is placed on it by my distinguished colleague from Maryland, to have a further opportunity to debate this subject.

Mr. BEALL. I am sure we will. I welcome the opportunity, because I believe it could prove to be a healthy debate, pending the outcome of our discussion. I would not want the Senator from Massachusetts to be too assured from my comments that I may vote one way or the other. This presents many of us with a dilemma. On the one hand, we support civil rights, but on the other hand we are determined to put an end to the abuse in HEW. I am thinking my own language, perhaps, provides the ideal solution.

I would hope the Senator from Massachusetts would be able to accept and endorse this language, because it would provide some answers, as far as I am concerned.

Mr. BROOKE. I would not presume to record my colleague on any vote. I will wait to see how he votes. But I do know how he feels about civil rights. I am sure if he has understood this debate, as I am sure he has, he will recognize that the Helms amendment would be disastrous to the civil rights laws of the country.

The PRESIDING OFFICER. The hour of 2 o'clock has arrived. Under the previous order, the Senate will now go into executive session——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be allowed to proceed for 2 minutes.

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

Mr. BROOKE. Mr. President, I address these remarks to the distinguished majority whip. I wonder whether we can obtain a unanimous-consent agreement to vote on the Helms amendment and the Scott-Mansfield amendment after the vote on the Rockefeller nomination. Is there a possibility of a unanimous-consent agreement?

Mr. ROBERT C. BYRD. Mr. President, I will do everything I possibly can. I am not sure what the prospects are. I will try.

Mr. BROOKE. Mr. President, I ask unanimous consent that during the consideration of these amendments, Ralph Neas, a member of my staff, and Bert Carp and Ellen Hoffman, of Senator MONDALE's staff, have the privilege of the floor.

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

Mr. BEALL. Mr. President, I ask unanimous consent that Joseph Carter, of my staff, also have the privilege of the floor.

Mr. ROBERT C. BYRD. Mr. President,

reserving the right to object, in connection with what matter?

Mr. BEALL. The matter under consideration.

Mr. ROBERT C. BYRD. The Rockefeller nomination?

Mr. BEALL. No, the Helms amendment.

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

Mr. BENTSEN. Mr. President, when the supplemental appropriations bill was voted in the Senate a short time ago, an amendment by the Senator from North Carolina (Mr. HELMS), was defeated by a vote of 43 to 36. The amendment was characterized as an antibusing amendment, and since I have consistently opposed the use of busing to achieve racial quotas, I supported it.

A variation of that amendment, which was originally introduced by Congresswoman HOLT, was approved by a House-Senate conference.

However, a close reading of the Holt amendment, even as it has emerged from conference, reveals that it is far more sweeping than was originally thought. The amendment contains provisions that would strike at the heart of some of our landmark civil rights legislation, in particular the Civil Rights Act of 1964. Title VI of the 1964 act provides that—

> No person in the United States shall, on the basis of race, color, or National origin, be excluded from participation in, be denied the benefit of, or subjected to any discrimination under any program or activity receiving Federal financial assistance.

The idea that all Americans, regardless of race, sex, or creed are entitled to have an equal opportunity for education and employment is deeply embedded in our law. The concept sprung from the conscience of America. Civil rights is an inviolate moral—as well as legal—commitment. Aside from title VI of the Civil Rights Act of 1964, there is also IX of the Education Amendment of 1972, which carries a similar promise of equality with regard to sex.

The Holt amendment, in my view, would make it exceedingly difficult for the major provisions of law to be enforced. The provision of the amendment that most concerns me prohibits agencies of the Federal Government from requiring that teachers and students be classified in the schools by race, religion, sex, or national origin, as a condition of receiving Federal funds.

On the surface, that provision has considerable appeal; however, its practical effect, as Secretary Weinberger has noted, will be to impede the enforcement of our civil rights laws. It is not a provision directed at busing, for busing is only one of a series of remedies the Government has at its disposal. I have made it clear that I oppose busing.

The Holt amendment, by saying that the keeping of records is not required, makes it impossible for the Government to determine if discrimination exists. If there are no records, there is no way to identify the possible sources of discrimination. Nor is it possible to determine where Federal funds should go in such fields as bilingual education, which will depend, at least in part, on knowing where the Spanish-speaking students are located.

The Holt amendment, therefore, places an intolerable and crippling burden on the Federal Government, which would be charged with enforcing our civil rights laws and then be denied the information which would enable it to do so.

I continue to oppose the use of busing as a tool to overcome inequalities in education. I believe it is highly inflammatory and that it has been largely counterproductive. Earlier this year, during the debate on the education bill, the Senate passed my amendment on equal education opportunities, which would have provided incentive grants to the States to encourage them to increase the level of financial support they give to some of our poorer school districts. I have subsequently reintroduced that measure as a separate bill, S. 3797. In my view, this is one way to get at the problem of inequality in education, and it would do so without the disruptive and divisive effects of busing, which have caused us to divert our attention from the quality of education and to direct it at costly and burdensome side issues.

Therefore, Mr. President, although I continue to oppose the specific remedy of busing, I support the Mansfield-Scott amendment, which will enable us to maintain the integrity of our civil rights laws. We may quarrel about how those laws should be enforced, but we must not take actions to weaken them.

Mr. TAFT. Mr. President, during consideration of this bill, I expressed my deep concern about two of the community development-related provisions. Specifically, I was concerned that the community development transitional fund had been slashed from $50 to $10 million, and that no additional funds would be appropriated for the section 312 inner city housing rehabilitation loan program even though the present appropriation is based on a $20 to $25 million HUD underestimate of the funding available.

I am gratified that the conferees did decide to restore the community development transitional fund. Even the $50 million which now will be available is not likely to be enough for all the cities whose urgent needs cannot be met through the new community development fund distribution formula. To cut this amount further simply would not have been responsible legislating. It would have led to temporary discontinuation of various ongoing community programs, with the predictable result of program delays and higher costs for accomplishing the same goals over a longer period. It would have been particularly harsh on some of our large, problem-plagued cities most in need of viable community development programs, as well as small towns not receiving automatic program funding. The conferees' action will not eliminate all such problems, but it will reduce their incidence and magnitude.

On the other hand, I was extremely disappointed that my amendment to appropriate an additional $25 million for the section 312 rehabilitation loan program was dropped by the conferees. The House of Representatives originally included $70 million in the HUD appropriations bill for this program. That funding provision was deleted later, based solely upon the Senate Appropriations Committee's understanding that carryover and loan repayment funds for this fiscal year "will make possible a program level of up to nearly $70 million without any additional appropriation," in the words of the committee report. Since that time, however, HUD has verified the fear I expressed during the debate on the HUD appropriations bill—that the amount of money available for this program was overestimated.

My floor amendment adopted by the Senate would have remedied this situation by providing the section 312 program level which Congress originally had intended. by deleting my amendment, the conferees have indicated their apparent indifference to and acquiescence with HUD's mistake in estimates.

The effect of this Congressional inaction is to reduce the funding level in the section 312 program to such an extent that it hardly can remain a separate program for fiscal 1975, as Congress had intended despite administration objections. That is extremely damaging in view of the program's positive past record, the justifiable emphasis we are currently placing on preserving existing housing, the crucial role it can play in the preservation of our cities, and the necessity to stimulate housing-related industries. This act of budget cutting is not anti-inflationary, because the funds would have stimulated an industry that is lamentably far from a demand-aggravated inflation situation. If anything, it will push housing costs up, because fewer acceptable housing units will be available.

I shall continue to try to remedy this error in our policy.

EXECUTIVE SESSION—NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the hour of 2 o'clock having arrived, the Senate will now go into executive session to consider the nomination of Nelson A. Rockefeller to be Vice President of the United States, which the clerk will report.

The second assistant legislative clerk read the nomination of Nelson A. Rockefeller, of New York, to be Vice President of the United States.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate, to be equally divided between and controlled by the Senator from Kentucky (Mr. COOK) and the Senator from Nevada (Mr. CANNON), and the vote thereon will occur at 3 p.m.

Who yields time?

Mr. COOK. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COOK. 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. BROOKE. Mr. President, will the Senator yield me 4 minutes?

Mr. COOK. I yield 4 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, in considering the nomination of Nelson Rockefeller to be Vice President of the United States, there are two major questions that ought to concern us. One is: What qualifications should be expected of the person who will stand "only a heartbeat away" from the Presidency? The other is: Does Nelson Rockefeller possess these qualifications?

Today, perhaps more than ever before in our history, America needs inspired leadership. We need leaders with outstanding competence, integrity, and dedication. We need leaders who can restore the confidence of American citizens in their Government. We need leaders with great practical experience, courage, imagination, and enthusiasm to focus on our problems in new ways and bring people together to find new solutions. Nelson Rockefeller is that kind of leader.

The Congress has a tremendous responsibility under the 25th amendment to the Constitution. It is a responsibility that must not be evaded or cast aside for narrow, partisan considerations. We have an obligation to the electorate, and to the Nation as a whole, to make sure that the person we confirm as Vice President is not only qualified to fill that office, but to assume the Presidency itself, if necessary.

There can be no question about it: Nelson Rockefeller is qualified. His record of public service spanning nearly four decades reflects a profound commitment to family and personal ideals of stewardship, civic responsibility, and the ethic of public service. Few men in public today can match his experience and outstanding achievements in the whole field of public affairs—in international relations and diplomacy, as an executive in State and local government, in the design and administration of innovative social programs, as a patron of the arts, and as an adviser to Presidents.

As few other men in our Nation, Nelson Rockefeller is uniquely qualified to be Vice President, and if necessary, President. Throughout the confirmation process, his competence has not been questioned. Some have questioned his judgment in certain incidents, and I cannot agree with every decision Nelson Rockefeller has made. But the confirmation process was prolonged not on the issues but on the fact that Nelson Rockefeller and his family possess immense wealth.

Regrettably, the Rockefeller fortune became the central focus of the confirmation hearings. In this regard, Nelson Rockefeller was totally candid. He revealed his holdings and his income tax records. He agreed to place his fortune in a blind trust. He was cooperative with the Committee on Rules and Administration in the Senate and the Judiciary Committee in the House. Nelson Rockefeller has been subjected to closer scrutiny than any other candidate for Vice President or President.

The scrutiny has revealed an immensely wealthy man of extraordinary generosity. But neither wealth nor poverty should be bars to public office. His gifts to associates in Government were revealed to be perfectly legal. Yet it is a practice which the nominee has agreed to cease.

His family's participation in the book on Arthur Goldberg is regrettable, but I do not believe it is of sufficient gravity to deter the confirmation of Nelson Rockefeller.

I am convinced that these questions are far outweighed by the overwhelming evidence of the public life and service of Nelson Rockefeller. His career has been characterized from the first by the highest standards of competence, integrity, and dedication to the public welfare. He is an outstanding leader, capable of restoring the confidence of American citizens in their Government—confidence that seems to be eroding today. Governor Rockefeller has been a friend of mine for many years, and I speak from experience when I say that few men have greater integrity or higher ideals.

I am proud to vote to confirm the nomination of Nelson Rockefeller, and I urge my colleagues to do likewise.

The PRESIDING OFFICER (Mr. COTTON). Who yields time?

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, for the second time in little over a year this Congress must assume the awesome responsibility of confirming or rejecting a nomination to the office of the Vice-Presidency of the United States.

Domestic problems and foreign uncertainties demand a complete executive, not the condition in which we now find ourselves—without a Vice President, without the use of a right arm. The time has come for the Congress to fill the Vice-Presidential void.

The magnitude of our decision is measured by the events which have transpired since the November 27, 1973, Senate confirmation of Gerald Ford to be Vice President. By virtue of the 25th amendment we are again entrusted with the power of election normally exercised by the people of this Nation. But these are not normal times, for we live in an urgent era of peril—a time that requires not offhand experimentation but the sure grip of experience, a time that must be ruled by clarity and understanding, not by riddle and ambiguity, a time like no other that must be marked by decision and not division.

Nelson A. Rockefeller more than fulfills these demands—his life provides the very example which illustrates unflagging dedication. His experience serving our country spans nearly 40 years and crisscrosses the globe with missions under the direction of Presidents from Franklin Roosevelt on.

That which has been accomplished by Nelson Rockefeller are the deeds which might fill the careers of a dozen men. He is knowledgeable, in fact an expert, in Latin American affairs; he served as chief executive of New York State, governed the well-being of millions of people, and shaped that great State's history forever; he has headed commissions and committees probing this Nation's problems in the search for answers. Unfortunately, Mr. President, some men have come to the Vice-Presidency bereft of this experience yet eager to advance a political career; plainly, Nelson Rockefeller comes to this office with knowledge at hand and a pledge to advance, not a career, but the interests of a country.

While the nomination of Nelson Rockefeller shall necessarily bypass the Nation's voting booths, the Governor has nonetheless been subjected to the crucible of congressional committee, and consequently his credentials have been closely scrutinized. More often than not the critics have been confounded, if not by answers which refute erroneous charges, then by honesty which, while admitting past error, establishes an openness and firmness of character needed today and essential for the tasks we face tomorrow.

If the Lasky book controversy incites criticism of Governor Rockefeller's lapse in attention to minute campaign details in 1970, the Governor's admission of misjudgment stresses the equally important, the essential, quality of candor.

Loans and gifts to private individuals and public servants do not necessarily translate into purses attached to strings ready to be pulled for favor. While there are questions, in the end this largesse indicates to my mind a generous, and yes, an admittedly wealthy spirit. But it is ironic that this dispersal of small portions of a vast fortune has developed into a liability, when it is obvious that the very reverse—greed and lust for money—was the ruination of one Vice President still very vivid in our memories.

The Rockefeller fortune extends beyond vaults and banking institutions; instead, Nelson Rockefeller's wealth of abilities is more important to the Nation. Abundant experience in both foreign relations and particularly domestic affairs is Mr. Rockefeller's talent which can become the Nation's good fortune.

Few men have approached the Vice Presidency with as much distinction as Nelson Rockefeller. Few men have respected the honest conduct of government and politics as Nelson Rockefeller. While he is a man uniquely gifted for the times in which we live, he is also a leader capable of changing those times for the better.

Nelson Rockefeller has been more than a witness to history; he has been a vital participant. His further participation as Vice President will shape this Nation's future for the better. While it shall be Governor Rockefeller's most important challenge, I wholeheartedly believe he shall discharge his duties with great verve and vigor. I shall vote for confirmation.

Mr. COOK. I thank the Senator from Oregon.

Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, it is said that even the weariest river winds somewhere safe to sea. So I hope that we are now approaching the sea of tranquillity—at least, the waters of decision.

The PRESIDING OFFICER. Will the Senator from Pennsylvania pause for a moment, without losing his time?

There is too much conversation in the Senate. The Senator from Pennsylvania deserves to be heard. Senators will take their seats, and those who wish to converse will retire to the cloakroom.

Mr. HUGH SCOTT. I thank the President, because this will indicate in the RECORD that there is a great deal of activity in the Senate, and activity is always to be commended, especially activity in a good cause.

As the newspapers have commented frequently, this nominee deserves to be confirmed. They have also commented many times that it could have happened earlier and should have happened earlier. The 25th amendment, as I understood it when I supported it, is intended to provide expeditious action, and it is intended to furnish the country with a reasonably quick transition and a maintenance of the order of succession. The fact that it has led a number of people into remote highways and byways is a part of our process, I suppose.

The PRESIDING OFFICER. The Chair regrets to have to interrupt the distinguished minority leader again. The Senate is not in order. There is a hum of conversation.

This is a very serious moment in the Senate, a very serious moment in history. The Chair must insist on order. Let the conversations cease, and those who are walking about the Senate Chamber, please resume their seats. Those who are not Members, if they have business here, take the seats in the back.

Mr. HUGH SCOTT. I thank the President. I ask unanimous consent that the interruptions not be taken out of my time.

The PRESIDING OFFICER. Will the Senator from Kentucky yield to the Senator from Pennsylvania another moment?

Mr. COOK. May I say, Mr. President, we are on a very limited time factor, and I hope that my colleagues will abide by the President's admonition so that we can move on.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOK. Mr. President, I yield to the Senator from Pennsylvania 1 more minute.

Mr. HUGH SCOTT. Mr. President, the Union will not rise or fall on what I say in 60 seconds. I think, however, that I should briefly state that I have been for this nominee from the beginning. I was for him for President of the United States at the convention of 1968. I am for him for Vice President today. He has been subjected to the most intensive examination, not to say grueling cross-examination, to which any nominee for public office has ever been required to submit. I should, therefore, think that everything has been said which needs to be said. He has emerged from this process as one who is a man of talent, capacity, understanding, compassion, and awareness of the nature and responsibility and the parameters of his duties. He is eminently qualified to be Vice President of the United States. I urge my colleagues to vote in favor of his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I rise to express my support for the confirmation of President Ford's nomination of Mr. Rockefeller as Vice President of the United States.

The Rules Committee, under the leadership of Chairman CANNON, has conducted illuminating and thoughtful hearings of Mr. Rockefeller, his qualifications, and his critics. This hearing record stands as a compliment to the committee and all of its members. I believe the hearings have been very constructive in introducing Mr. Rockefeller to the American people in a way in which they can have full confidence in him as a public official. I do not believe the criticisms which I have heard of the committee and its actions are in any way justified. Full disclosure of all aspects of a Presidential nomination for the Vice Presidency is mandatory. The 25th amendment requires that Congress consider the nominee under the closest possible scrutiny. The hearings by the Rules Committee were judicious, dignified, and a credit to the U.S. Senate.

After a careful examination of Governor Rockefeller's record and the testimony of witnesses before the Rules Committee, I conclude that Governor Rockefeller is highly qualified to serve in the position of the Vice President of the United States. His career of public service extends over 40 years. He has served in Presidential appointments under four Presidents. President Roosevelt appointed him Assistant Secretary of State in 1944. In that capacity, Mr. Rockefeller was a key adviser on the formation of the United Nations and Latin American affairs.

President Truman appointed Mr. Rockefeller Chairman of the Presidential Advisory Commission on Latin America. President Eisenhower appointed him Chairman of the Presidential Advisory Commission on Government Organization which he served for 7 years. And Eisenhower appointed him Special Assistant to the President for Foreign Affairs. Mr. Rockefeller assisted the President at the Geneva Summit Conference. Mr. Rockefeller served as the Governor of the State of New York from 1959 until 1974. He has established a clear record on all of the important issues presently facing our society. I take particular note of his record in the area of human rights, environmental protection, economic growth, health, the rights of women, and the needs of older citizens. While Governor of the State of New York, he was a key advisor to President Nixon on Latin American affairs and the fiscal relations of State and local governments to the Federal Government. More recently, Mr. Nixon appointed him Chairman of the Commission on Critical Choices. President Ford appointed him Chairman of the National Water Quality Commission prior to his nomination as Vice President.

There are three key issues in addressing the Rockefeller nomination. First, is he qualified? Second, does the size and scope of his personal and family fortune create an inherent appearance of conflict of interest and an intolerable coalition of political and financial power? Third, do the unseemly incidents which have become a matter of public record seriously impugn Mr. Rockefeller's integrity?

I believe the unique and complete public disclosure of Mr. Rockefeller's personal and family wealth effectively protects the public interest against conflicts of interest while Mr. Rockefeller serves as Vice President. This is the most effective deterrent possible for a high public official who must maintain the complete and total trust of the citizenry. Again, I believe the committee has fulfilled critical public service in requiring and encouraging this unprecedented public disclosure of Mr. Rockefeller's personal financial wealth.

The unseemly incidents which have become a matter of public record from Mr. Rockefeller's past history concern me. His loans and personal gifts and political contributions reflect serious insensitivity in the past to the impact of his personal wealth on ordinary citizens. His participation in the Goldberg book incident was a matter of poor judgment. Fortunately, he has publicly apologized for his involvement. His involvement in private business transactions while a State official in New York in no way indicate lack of personal candor or honesty. However, they do point up the seriousness of potential conflicts of interest for a man of Mr. Rockefeller's wealth. And finally, Mr. Rockefeller's record in prison reform is mixed and inconsistent.

Nevertheless, Mr. President, I do not view any of these incidents as disqualifying his nomination. They are not easily dismissed. They reflect a serious lack of sensitivity in his prior public life in certain areas of activity. But again, I believe the work of the Rules Committee has brought these matters to the public arena. Mr. Rockefeller has responded fully and candidly to the committee's questions and I have every confidence that he now understands the problems these incidents pose for the American people and will in no way engage in similar activities in the future.

His public service and multitude of positions of great public responsibility have made him the most eminently qualified member of the President's own party to fulfill the duties of the Vice Presidency. He has demonstrated a positive, humane political philosophy in carrying out his public duties. Therefore, I intend to vote for Mr. Rockefeller's confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield 7 minutes to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I wish to say as a preface that some members of my staff concluded that people might interpret my speech to mean that I am opposed to Mr. Rockefeller because he is a man of wealth. I should like to make it clear that that is not the intent and purpose of what I say in my speech.

What is the responsibility of a Member of Congress when voting on a Presidential nominee under the provisions of the 25th amendment? Is it enough simply to determine whether the nominee is honorable, decent, honest, able, experienced and philosophically positioned somewhere in the mainstream of American political thought? Mr. Rockefeller, certainly, measures up to that standard. If, in fact, that is the standard and limitation under which we each should make our decision, then this process does not materially differ from the generally accepted standard for evaluating a Cabinet member who has a special personal responsibility and loyality to the President and serves at his pleasure.

I think the 25th amendment involves something more than that, however elusive the specific definition of it may be. It is easier to define what it is not than what it is. Everyone would agree that any nominee should be possessed of these qualities as a minimum for this office or any other office of public trust. Everyone would also agree that the amendment does not contemplate nor countenance a decision on partisan grounds. That would frustrate the whole purpose of the process. Nevertheless, this is an election, not a routine cabinet confirmation process. This process is a substitute for a general election. We are casting a kind of representative vote for the rest of the Nation. The successful nominee will become Vice President and may become President.

In an editorial on December 9, the Washington Post outlined its view of congressional responsibility under the 25th amendment. The editorial is quoted here, in part, because it succinctly describes the conventional view of congressional responsibilities and guidelines in this process.

The fundamental problem with the Rockefeller nomination, of course, is that Congress has not yet determined precisely what its responsibilities ought to be under the 25th Amendment. Those responsibilities are quite different from those of a voter in a presidential election. A voter is entitled to make his decision on prejudice, qualifications, philosophy, partisanship or anything else that crosses his mind. Under the 25th Amendment, it seems to us, Congress ought not to vote to reject a nominee unless it can be demonstrated that his judgment is consistently bad, his political views are outside the mainstream of American politics, his knowledge and experience are so limited as to make him unable to grasp the problems a President must face, or his integrity and personal honesty are highly suspect. Mr. Rockefeller, we think, passes these tests—despite the loans and gifts, the Goldberg book, Attica, and some high-handedness as governor of New York. He ought to be confirmed as Vice President forthwith."

I think it is accurate to say that this view is embraced by a large majority of the Congress and perhaps the country, too. Nonetheless, I do not share it because I think it is too narrow in scope and too limited in flexibility.

In my view, it is appropriate and necessary in this process to evaluate the views of the nominee on the crucial, central issues of our time. By central issues I do not mean—I emphasize that I do not mean—that long laundry list of important social and economic proposals involving health care, tax reform, foreign trade, and so forth, but rather those major issues upon which the very survival of our system depends.

There is no doubt in my mind, for example, that Mr. Rockefeller does understand the crucial nature of the worldwide resource crisis, that he does understand that we live on a fragile planet with finite resources and a finite capacity to support life. He does understand that central issue.

However, another central issue of our time, the vast concentration of power in gigantic institutions, Mr. Rockefeller does not consider a vital matter. In all of his long years in public life, he has never addressed himself to it.

Thus, my concern over this nomination revolves around that good old-fashioned question of concentrated wealth and power. What is its meaning in a free society? What are the implications of the rapidly increasing concentrations of economic power in bigger institutions and fewer hands?

The Rockefeller wealth represents one of the world's great family fortunes. If that were all it represented it would be unimportant, but that is not all. It is a fortune that permeates, infiltrates and is part of that vast monopolistic economic infrastructure which administers prices, drives out competition, erodes and corrodes the free enterprise system and exercises great economic and political power without public accountability or political concern for the end result so long as it is profitable. While that kind of majestic neutrality may be acceptable in a world of corporate citizens, it is an unacceptable morality in a world of real people, with real hopes and wishes for a better tomorrow.

The Rockefeller wealth is, in short, part of the problem, not the solution. This does not suggest or impute evil in the customary sense of the word. In the world of business they have used their wealth in accord with the rules of the game. That is the problem. It is a bad game with bad rules.

It is not necessary to document the modern history of economic concentration. The libraries and congressional hearing rooms are loaded with such documentation, unread, unheralded, and unheeded. Anyone who bothers to look will find the giants, big oil, big steel, big coal, big auto, big chemical, big banks, big conglomerates, big multinational corporations and many others all wonderously intertwined somehow or other in the great, intricate "American Connection" that would be the envy of Rube Goldberg.

They all share a common goal—eliminate the competition or buy it, monopolize the marketplace or conspire to control it. That is their business, and that is what they are doing, unfortunately, with great success.

Giantism in all of its manifestations—and this is the main point of any objection to Mr. Rockefeller—threatens freedom in all of its forms. In my judgment, those who do not perceive the danger and speak boldly about it are not qualified to lead the country, however fine and decent they may be as human beings.

I have raised this issue for years, as have many others, and shall continue to do so. It is a vital matter that we ignore at our peril. While we continue to befuddle the country with little matters these giant centers of power continue to consume and destroy the freedom and vitality of the very system we enshrine in every speech, and any elected official in any position of political power who ignores that issue by his silence, in my judgment, should not hold a position of high political influence.

For that reason, I intend to cast my vote against the nominee.

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Indiana.

Mr. BAYH. Mr. President, the decision we must make today, as we all know, is whether we will confirm the nomination of one who might, if fate calls, be thrust into the office of President of the United States.

Normally, the decision of who shall be President is made by the people. But under the terms of the 25th amendment, that responsibility falls to us. We have considered a Vice Presidential nominee only once before, and have seen that man become President.

Thus, contrary to those who would criticize our distinguished colleague from Nevada and his committee for the time they have taken in considering the Rockefeller nomination, I think the 25th amendment requires the judicious consideration of all the facts. And although I, as one Senator, have come to a different conclusion than my distinguished collcague, the chairman of the Committee on Rules and Administration, I in no way fault him for the time that has been taken to let fresh air percolate through the record.

Mr. President, this vote is as difficult as any I shall cast as a Senator. The decisionmaking process has been the most difficult one I have gone through in the 12 years I have been in the Senate. I suppose this is partially because of the role I played in the structuring and passage of the 25th amendment. But as I look at the task before us, we are compelled to consider the Rockefeller nomination not in isolation but on a foundation built of the problems which confront our society generally. Not only must we weigh all of the substantive problems that confront us, there is a much more difficult problem underlying all of those substantive problems. From my perspective this most important problem we have today is a significant lack of public confidence in the political processes, in our political institutions, in our political leaders, and, indeed, perhaps even in the foundation of our country itself.

I am concerned that Governor Rockefeller, with all respect to his public record and his honesty, does not command and would not command the public confidence of large numbers of American people if indeed he were called upon to succeed to the Presidency. And what has compounded the difficulty of my deci-

sion on today's vote is that as I read the record, there is no one item in Mr. Rockefeller's record which is singularly disqualifying. Rather, it has been a steady drip, drip, drip, like grains of sand on a scale, as the record has come out, which in my judgment has seriously eroded the confidence of the American people in Mr. Rockefeller. This takes us to the point where the scale, in my mind, has tipped against confirmation to the point where I am prepared to suggest that Mr. Rockefeller does not have sufficient public confidence to merit confirmation.

We could go through the matters line by line—the gifts, the Triborough Bridge and Tunnel Authority bond interest, the tax matter, the book, Attica, and others—which have eroded public confidence in Mr. Rockefeller. But in my opinion the question viewed as most difficult by the committee is the same matter which the Senator from Indiana has found the most disconcerting: the issue of Mr. Rockefeller's personal wealth—his great industrial influence, and where that could indeed provide a conflict of interest or the appearance of a conflict of interest between his personal wealth and the making of public policy.

The one item, I think, that comes to our attention most directly in today's environment is the great interest that the nominee and his family have in three of our major multinational oil companies. The fact is that this country now has to grapple with the oil cartel problem, the oil pricing problem, the depletion allowance problem, and the fact that the Federal Trade Commission is in the process of bringing suit against the eight multinational oil companies. And should Mr. Rockefeller become President of the United States, he would have to be in the vanguard of answering these very difficult problems.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. May I have 2 additional minutes?

Mr. CANNON. I yield the Senator 2 additional minutes.

Mr. BAYH. However well prepared Mr. Rockefeller might be as President to ferret out the answers to these energy problems and make the right decisions, I am afraid that the people of this country would not credit him with the ability to make an impartial decision. As a result, there is no way that the public would have confidence in that decision. And, Mr. President, no President can really govern unless he has the confidence of the people.

The normal barometer for judging that confidence is to go through the Presidential election process. But the provisions of the 25th amendment do not provide for an election under the present circumstances. Thus I must make an individual judgment, as one Senator, realizing that other Senators, in good conscience, can come out on the other side of the question.

In my judgment, the balance of the scale tips to the side that says the future President Rockefeller, in today's circumstances and today's environment, does not possess and will not possess the necessary confidence of the American people to provide strong leadership.

Mr. President, today for only the second time in our history, the Senate faces the awesome responsibility of participating in the election of a man to our Nation's second highest office—Vice President of the United States. I use the term "elect" rather than "confirm" advisedly and to heighten our awareness of the distinctive features of the Congress role under the terms of the 25th amendment.

I believe the judgments we must bring to bear on this occasion are of a substantially different nature than the factors to be weighed in the confirmation process of other Presidential appointees or nominees.

In this one particular case under the terms of section 2 of the 25th amendment, we were acutely conscious of two particular circumstances: first, that the people would not be making this choice, and, second, that the nominee might very well succeed to the Presidency himself under the terms of the amendment. As the author of the 25th amendment, I had these unique circumstances very much in mind as we framed the precise language of the amendment through long hearings and floor debate—and, I should add, that I was particularly conscious of them in the long deliberative process that has brought us to a vote on the present nominee and to my own difficult decision.

The legislative history of the 25th amendment is replete with references to the fact that in this one instance the Congress would serve as surrogate electors; that, in fact, we were the vehicle through which our constituents' feelings were to be made known and that public sentiment was a critical element in the decisionmaking process for those of us called upon to vote.

While the legislative history of the amendment does not spell out the precise details of how each one of us is to reach that judgment, it does make it abundantly clear that it is a unique function we are called upon to perform—and that its uniqueness stems, in large measure, from our responsibility to reflect upon the sentiments of those who, normally, have the right to make this decision for themselves.

Mr. President, the decision to confirm a Vice Presidential nominee requires a careful and delicate melding of constituent representation and judgment on the ability of the nominee to serve our Nation as President if he is called upon to do so. One can better appreciate the uniqueness of our role today when we consider that the nominee before us may be called upon to serve as President under the terms of section 1 of the 25th amendment. History is full of such successions. For this reason also, public sentiment, particularly as it relates to public confidence in the nominee, must weigh heavily in our decision. It is not necessarily our role to evaluate the rightness or wrongness of that sentiment but to give it great consideration and weight and to determine whether it is in fact a legitimate concern.

Mr. President, now let us turn our attention to the pending nomination of Nelson Rockefeller to be Vice President of the United States.

As with any other individual who has a long career of public service, Mr. Rockefeller's record is marked by specific instances of achievement and by blemishes of varying degrees. No one can deny the breadth of the nominee's experience in foreign and domestic affairs, nor can anyone deny that there are aspects of Mr. Rockefeller's record which are truly admirable.

Yet equally obvious are certain aspects of Mr. Rockefeller's record which must be counted against the nominee. While none of these specific incidents in Mr. Rockefeller's public record individually justifies a vote against confirmation, they require our due consideration.

Most disturbing among the items that have been brought to light through the confirmation process is Mr. Rockefeller's extremely generous largess in making substantial gifts and loans, not only to personal friends but also to public officials.

There is at the outset an unanswered question as to whether Mr. Rockefeller's practice of loaning money to State employees, and subsequently forgiving those loans, violated either the letter or the spirit of New York State laws governing the giving of gifts and gratuities to State employees. It is unfortunate that the Rules Committee was unable to exonerate Mr. Rockefeller from possible violations of these criminal statutes. Indeed, after posing the legal questions involved, but pointedly stopping short of any conclusions, the Rules Committee report says—page 147:

> The Committee feels it is not a proper forum to accomplish that end.

In other words, Mr. President, the record and testimony before our committee raises the possibility that Mr. Rockefeller may have, in fact, violated the criminal laws of his State but is unable to resolve the crucial question of whether such violations actually took place.

And even if we set aside the precise legal question involed here, we are left with a nagging sense of impropriety in Mr. Rockefeller's extensive pattern of gift-giving and lending money to State employees—only to subsequently forgive those loans.

Mr. Rockefeller clearly knew he could not give this money to employees of New York State while they remained on the State payroll. Yet on many occasions the loans were made while the recipients were on the State payroll, interest on the loans was not collected, not a penny of principal was repaid, and the loans were forgiven as soon as the recipient left the State payroll. A reasonable assumption can be made that this practice was specifically devised to permit Governor Rockefeller to circumvent the provisions of New York State law.

This problem is most severe in the case of the $510,000 lent to William J. Ronan by Mr. Rockefeller. This is a significant sum on which no interest was collected, no principal was ever repaid, and which was forgiven in its entirety immediately after Dr. Ronan left the State payroll.

The issue of the gifts to Dr. Ronan, which total $625,000 including outright gifts made just before and just after Dr. Ronan served as a State employee, is highlighted by several other factors.

There are unsettling questions raised by the size of the gifts, by the fact that they were made not because of personal financial hardship, but to permit Dr. Ronan to acquire vacation property and make substantial investments, and by the added fact that Dr. Ronan left State service to become chairman of the Port of New York Authority, an independent bistate authority. The port authority, it must be noted, is in a position to make decisions bearing directly on the financial interests of the Rockefeller family—and has, in fact, made those decisions over the years.

Mr. Rockefeller's pattern of making loans to public officials when outright gifts were clearly illegal and then forgiving those loans at the first available opportunity, with the Ronan case the most salient, has legitimately raised basic questions about the nominee's sense of propriety and his judgment in adhering not only to the letter, but also the spirit, of the laws of the State he governed for 15 years.

There are other aspects of Mr. Rockefeller's record which also present problems, not about violations of the law, but about the nominee's judgment and the confidence the American people will have in his judgment.

There is the transit program Mr. Rockefeller engineered at the expense of an additional one-fourth of 1 percent interest on the bonds of the Triborough Bridge and Tunnel Authority—an agreement carefully negotiated with the trustee of those bonds. The problem arises from the fact that the trustee that agreed to the transit package and dropped an opposing court suit only after securing additional interest on the bonds was the Chase Manhattan Bank, of which the nominee's brother, David, was president.

Not only does this incident pose problems because of the relationship between Mr. Rockefeller's actions as Governor and the interests of the bank of which his brother was president. It is important to recognize that the expense of the additional one-quarter of 1 percent interest added to the bonds of which Chase Manhattan was the trustee was borne by the public which pays tolls and fares in the New York transit system. In other words in order to effectuate his deal, Mr. Rockefeller not only had to work out an accommodation with his brother's bank, but he also agreed to place a further burden on the public. Such an agreement provokes the greatest public skepticism about how this governmental decision was reached.

There is also Mr. Rockefeller's decision, while Governor, to assure the financial success of the World Trade Center, a huge construction project undertaken by the Port Authority, by locating large numbers of State offices in the center. As in the case of the TBTA bonds, this decision had a direct financial impact on the Chase Manhattan Bank.

Mr. President, in raising these specific issues I am not alleging that they are individually of sufficient weight to disqualify Mr. Rockefeller from the Presidency or that there is any specific evidence of criminal violations on the nominee's part. Rather what we see unfolding here is a pattern of conduct that inevitably has evoked within the American people serious reservations regarding Mr. Rockefeller's sense of propriety. In fact, the impression is created that it has been impossible for Governor Rockefeller to make these governmental decisions without affecting the interests of his families' vast financial holdings. As I shall explain, the nominee is before us at a time when public distrust of government officials is enormous and potentially very damaging.

Added to the specific issues cited above must be the incident surrounding the derogatory book on Justice Arthur Goldberg, financed by Laurence Rockefeller at the time Justice Goldberg was running against Nelson Rockefeller for the governorship of New York. The book incident is somewhat troubling in and of itself, but the problems it poses in weighing the nomination now before us are compounded by the fact that the nominee twice misstated his role in the decision to proceed with and finance the book about Justice Goldberg.

The absence of candor in Mr. Rockefeller's response to disclosure of his role in the writing and distribution of the book about Justice Goldberg is not unlike his lack of candor with the Rules Committee in initial reports on his personal finances. It will be recalled that Mr. Rockefeller prepared a report showing his worth at $33 million, only a revise that figure upward to $218 million after more careful scrutiny.

All of the foregoing, created—to varying degrees—questions in the public's mind about Mr. Rockefeller's suitability to serve as Vice President, and as President should fate call upon him to do so.

The degree of doubt Mr. Rockefeller has engendered is increased by two other factors: The incident at Attica State Prison which cost 43 lives and which caused large numbers of our citizens to question Mr. Rockefeller's qualifications, and the audit of the nominee's tax returns, which resulted in his payment of close to $1 million in additional taxes, largely because of disallowed deductions. Certainly Mr. Rockefeller's handling of the incident at Attica can be debated by persons honestly adhering to different views, but there is no escaping the fact that for many Americans the incident permanently implanted a distrust of Mr. Rockefeller. And, as regards his tax adjustment, we must recognize that while there is no evidence of fraud in his part many Americans will feel their doubts about public officials are confirmed by Mr. Rockefeller's back tax bill. Clearly, these two instances do the same, as the other incidents cited previously serve to undermine public confidence in the nominee.

As I said, we are confronted, Mr. President, with a situation in which no one of the specific weaknesses in Mr. Rockefeller's record can of itself disqualify the nominee from serving as Vice President, or as President should that become necessary.

But we do have a situation in which the accumulation of specific incidents collectively pose a basic question as to whether the nominee would command the necessary confidence of the American people if he were called upon to fill the office of the Presidency. For the reasons cited above, and for other reasons I shall enumerate below, I have concluded after much consideration that Nelson Rockefeller could not succeed to the office of the Presidency with the requisite support of the American people.

For this reason, I have decided to vote against confirmation of Nelson Rockefeller as Vice President.

Before explaining my decision in greater detail, Mr. President, I want to make it clear that I resolved to vote against confirmation only after much deliberation and consideration. It was not an easy decision. In fact, this decision is one of the most difficult ones I have made in my 12 years as a Senator. The question of whether Mr. Rockefeller should be confirmed does not lend itself to a simple conclusion. As one who wrestled at great length over my own vote, I recognize as well as anyone that sincere and thoughtful individuals could look at the same information I reviewed and still vote to confirm the nominee.

But it is my judgment that the issues which serve to undermine public confidence in Mr. Rockefeller do, like grains of sand piled one on top of another, ultimately tip the scales against him.

It is essential to recognize, Mr. President, that this difficult decision was reached in the context of our present environment—an environment in which public confidence in government is weaker than at any other time in recent history.

The depth of public distrust in government, in public officials, and the political process is so great that this disenchantment truly threatens to undermine the proper functioning of our democracy, which, after all, draws its strength and legitimacy from the consent of the governed.

One need only to review briefly the incidents of recent months to understand the sources of this distrust:

An elected Vice President resigned from office and pleaded no contest to a charge of tax evasion. Not only did his misconduct provide a source of public skepticism about elected officials, his avoidance of a jail term while his coconspirators have subsequently been sentenced to prison compounds the negative consequences of Spiro Agnew's resignation in the face of criminal charges. The Agnew case, and its aftermath, raises a question of whether there are two standards of justice—one for public officers and a more stringent one for everyone else.

Then there was the national trauma of Watergate, an experience that remains in the public light. The extent of public deception throughout the Watergate affair, the indictment and conviction of numerous former high officials, the extent of illegal fundraising, the

abuse of the agencies of Government for political ends, and ultimately the resignation of a President in disgrace, all contributed to an unprecedented erosion of public confidence in our Government and the people who serve in public office. One need not recount in great detail the specifics of Watergate to make the fundamental point that all of us in public life—and as a result the strength of our Government—have suffered from the public skepticism and distrust fostered by this prolonged blot on our national history.

As weakened as public confidence in Government was when Richard Nixon finally left office, it was further eroded when President Ford issued a general pardon for all offenses Richard Nixon committed, or may have committed, while in office. The harmful impact of the pardon was exacerbated by the irony that Richard Nixon was pardoned at the very time his most senior assistants and a member of his Cabinet were about to begin their trial on criminal charges for which Mr. Nixon was named as a coconspirator. As in the Agnew case, the public finds good reason to question whether this Nation is governed under a single, equitable standard of justice applicable to all our people.

Not only have these scandals, the most venal in the history of our Republic, served to bring public confidence in Government to a low ebb, public mistrust has also been further heightened in recent months in another area. I refer to the abuse of power by huge, multinational oil companies with what many Americans perceive, rightly or wrongly, to be the consent and concurrence of many of their elected officials. One need not subscribe to the notion that our experience with fuel shortages and the doubling and tripling of oil prices result from a conspiracy among the oil companies with the tacit approval of public officials to recognize that large numbers of our citizens believe that such a conspiracy exists. The issue of big oil raises special problems, as I shall note subsequently, in considering the nomination now before us.

Mr. President, we are asked to vote to confirm Nelson Rockefeller as Vice President at a time when the strength of our system of government is seriously threatened by the breadth and depth of public cynicism with the governmental process. Time and again I have spoken with my constituents, with young people on college campuses, with citizens in all parts of our country, and time and again I have sensed the extent to which the American people are finding it harder and harder to trust their Government and their officials.

Time and again I have urged our citizens to have faith in their Government, to believe in the fundamental strength of our democracy. I have sought to convince them that what they have witnessed on their televisions and in the screaming headlines about the abuse of power is not "business as usual" but rather an unfortunate concentration of singular violations in a short period of time. And I have emphasized that the people must not lose faith in their Government, must not walk away from the political process—for that will, in fact, lead the special interests to an even more brazen attempt to fill the void created when the average citizen abandons his Government.

Against this ominous backdrop of public distrust, I have asked myself whether Nelson Rockefeller—should he succeed to the Presidency—would command the necessary respect of the American people to turn distrust into trust, cynicism into faith. And I have concluded, after much soul searching, that he could not carry that critical and indispensible burden.

Nelson Rockefeller could not meet this imposing assignment because he already has engendered, for the reasons outlined previously, a significant measure of skepticism among the American people about his sense of priority, the quality of his judgment, his use of power, and the use of his wealth.

The issue of wealth, Mr. President, is the one which appears to have most troubled the members of our Rules Committee. There is, the committee acknowledges, the risk of inherent conflicting interests in many decisions Mr. Rockefeller would be called upon to make should he become President. The extent of his financial holdings, and that of his family is so great that it would be virtually impossible for him to conduct the affairs of our Nation without further evoking public debts as to his motivation.

And, despite the issues previously discussed, this issue concerns me most of all from the standpoint of public trust and confidence.

The magnitude of the financial holdings of the Rockefeller family and the trusts created by the nominee's father are remarkable to behold. The family involvement in the oil industry is the largest single part of a family fortune that exceeds $1 billion. Aggregate family holdings in three of the world's largest oil companies, Exxon, Mobil, and Standard Oil of California, total more than $300 million and this does not include lesser holdings in the stock of other oil companies.

The far-reaching nature and influence of such fantastic wealth has stirred in the minds of the American people serious doubts as to Mr. Rockefeller's ability to conduct the affairs of our Nation without the omnipresent potential for direct and indirect conflicts of interests.

Take as just one salient example, the matter of energy policy, something that poses a special problem because of the extent of Rockefeller family interests in the major oil companies.

Mr. Rockefeller stated in his confirmation hearing that he opposed repeal of the depletion allowance on oil production. Obviously this is an opinion held by many who have no direct oil interests. And I have no reason to doubt that Mr. Rockefeller's position on the depletion allowance is taken with any less sincerity or integrity than a similar position taken by many of our colleagues. But the reasons for Mr. Rockefeller's position will not lessen the public's doubts about his motivation.

Similarly, were Mr. Rockefeller to veto legislation to roll back oil prices, as former President Nixon once did and as President Ford may do in the future, there is no doubting that a large segment of the American people would take such a veto by Mr. Rockefeller as further evidence of corruption in high places—no matter how honestly he felt that his action was the proper national policy.

Still another example of the potential for conflict in energy policy and Mr. Rockefeller's family interest in the oil industry can be found in a currently pending Federal Trade Commission action charging the eight largest oil companies, including the three in which the Rockefeller family holds very substantial interests, with engaging in anticompetitive practices. This FTC action will be with us for some time, and there is always the additional possibility of antitrust action against one or more oil companies by the Justice Department. Should Mr. Rockefeller succeed to the Presidency, the public cannot help but question whether he would be free to approach such issues strictly on merits. Were he to order action beneficial to the oil companies, public cynicism would be renewed, and the "great conspiracy theory" would be given additional weight.

There are many other crucial energy decisions that Mr. Rockefeller would be called upon to make should he become President, and in every instance there would be additional undermining of the already dangerously weak public confidence in governmental decisionmaking.

On the other side of the coin, suppose Mr. Rockefeller were posed with these basic decisions affecting large oil interests and the recognized the danger of public skepticism. Perhaps in those circumstances he might feel obliged to bend over backwards to avoid any appearance of impropriety. Should that be the case he might be denying himself legitimate policy options, restricting the scope of his authority out of a desire not to foster the very public distrust we seek to avoid. Should such an instance arise anc. should Mr. Rockefeller act in this manner his ability to respond to national problems in the most intellectually honest and governmentally sound fashion would be circumscribed; not because of any failing on his part but because of a unique set of circumstances confronting our Nation at this time and the incredible enormity of the Rockefeller financial interests.

Mr. President, it is not a measure of Mr. Rockefeller's record in public life, nor is it a final judgment on his ability to continue to serve in public office, to say that under the circumstances that now exist in this Nation he should not be confirmed as Vice President under the terms of the 25th amendment. Indeed, it is unfortunate that public confidence in our Government has reached such a low point that Mr. Rockefeller's nomination need be weighed in this context.

But we can no more escape from the reality of current circumstances than we can overlook the vast concentration of wealth in the Rockefeller family.

In this context I was struck by the irony of an editorial which appeared in yesterday's Washington Post. In urging

confirmation of Mr. Rockefeller, the Post said:

> The reality of our modern industrial society, moreover, is that real economic power rests far less with the hereditary rich than with the managers of great corporations and those who control the vast sums of money held by insurance companies, mutual funds, pension funds, and trust departments of banks.

In many respects this latter description of those who control vast sums is a fair characterization of the wealth of the Rockefeller family, reaching as it does to all sectors of our economy.

One need not impugn for a moment Nelson Rockefeller's motivation to serve as Vice President, or President if called upon to do so, to recognize that in his exercise of great power he will constantly be making decisions of direct impact on his family's financial holdings. And one need not call into question the man's integrity to recognize that when such political and economic power is thrown together the public legitimately may question the man's motives, especially in light of the environment of suspicion confronting us today.

Whether he were to make right decisions or wrong decisions, were Mr. Rockefeller serving as President those decisions would be called into question in a way which would further erode the faith of our people in their Government.

In voting on the nomination of Nelson Rockefeller to be Vice President, it must be remembered, we are voting on his ability to serve as President. And I am convinced that, rightly or wrongly, his ability to serve as President has been seriously undermined by heightened distrust among the American people.

Not only would that distrust impair Mr. Rockefeller's ability to serve as President, but our entire Nation would pay the price of further fostering the cynicism already rampant in our country. No President can successfully solve the monumental problems confronting the United States today unless he has the faith, trust, and confidence of the American people.

The normal vehicle for weighing public trust in a President is the Presidential election process. However, the provisions of the 25th amendment do not provide for such a public barometer. These provisions require me, as one Senator, to make this value judgment.

After long and difficult soul searching, I have concluded that Governor Rockefeller cannot command the public confidence necessary to effectively govern and thus I am not prepared to vote to place him in a role from which fate might require that he succeed to the Presidency.

My vote is not simply a measure of Nelson Rockefeller. Rather it a measure of the times in which we live and the unique circumstances of his background. The unique responsibility that rests with us as surrogate electors under the 25th amendment argues, under these circumstances, for the rejection of Nelson Rockefeller as Vice President.

I close by repeating, Mr. President, that this is not solely a judgment of the man himself, but rather a composite of the events of recent months, the nominee's personal and public background, the times in which we live, and the unique role thrust upon us by the 25th amendment.

After great soul searching, I come down on the side of feeling that the country would be better served by having a different man as Vice President of the United States.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I find myself in somewhat of a difficult position here on this side of the aisle, in speaking in support of a Member of the other party and in opposition to such distinguished colleagues as the Senator from Indiana and the Senator from Wisconsin, but I do feel that I have to say something on this matter.

Mr. President, I would just like to quote briefly from the record of the hearings in this matter, from page 2:

> During the committee's consideration of the Ford nomination, his political views were explored in considerable depth. Nevertheless, the approval of his nomination was predicated not on his political affiliation nor on his voting record in Congress, but rather on his qualifications to serve in the office.
>
> Had the committee—and subsequently the Congress itself—not accepted that principle, it is possible that Mr. Ford would not have been confirmed as Vice President.
>
> Now, by his nomination of former Governor Rockefeller to be Vice President of the United States, President Ford has introduced a new and significant element for the committee's consideration. I refer, of course, to the public-policy implications of a nominee whose vast financial holdings touch many segments of the American economic system.

Now, Mr. President, I said yesterday in the overall our committee felt that it should consider the nominee on the basis of his entire record, and on the sum total of all of his qualifications, not simply a single issue, unless it was of perponderant importance to an individual member. But no member of the committee found a bar or impediment which would disqualify Governor Rockefeller for the office to which he had been nominated.

I point out that my distinguished colleagues who oppose this nomination have likewise said they did not find one single issue that they felt would justify opposition.

However, the distinguished Senator from Indiana did point out that he believed the nominee did not have sufficient confidence of the American public.

Well, Mr. President, I have carefully reviewed the 25th amendment which the distinguished Senator from Indiana fought so hard to get enacted, and I cannot, for the life of me, find any provision in there that says this committee should find that the nominee should have a sufficient confidence of the American public.

That is why the 25th amendment was propounded here. The American public did not have the opportunity, they did not have the opportunity in the Ford case, they did not have the opportunity in the Rockefeller case, they would not have the opportunity in any other case in a situation like this to gain a widespread public confidence of the American public.

I submit, Mr. President, this is a substitute action—a substitute because we do not have the opportunity to submit this for a vote of the people.

Mr. President, I said yesterday with respect to this particular nominee the committee noted that any President could be expected to nominate a person from his own political party and, more likely, one of his own political philosophy to fill a Vice Presidential vacancy, although in this case I think we have two men certainly of a different political philosophy, even though they are of the same political party.

Additionally, the committee accepted the premise that some of the electorate and, indeed, some of the committee members, might not agree that Nelson A. Rockefeller was the best choice the President could have made from among leading Republicans to serve in the second highest office in the land.

Nevertheless, it was the committee's responsibility to consider and make judgment as to whether this nominee, as submitted to Congress, is qualified to be confirmed as Vice President.

Mr. President, the Senator from Wisconsin made the statement that this process was the substitute for a general election. That is not the case. This is a substitute but not a substitute for a general election. In a general election you have the opportunity to choose between two people, and here we have the opportunity to either accept or reject a particular nominee, and that is on the basis on which we have to look at this particular nominee, Mr. President, not a question of do we like someone else better or do we have a choice between two nominees.

Now, Mr. President, in summary, the committee sought to explore all facets of Governor Rockefeller's fitness and qualification for this office, his public and private life, his personal character, his integrity and honesty, his experience and knowledge, plus a unique and unprecedented factor, the concentration of great economic and great political power in a single individual, and what this symbolism in the office of Vice President might mean to this country.

Well, Mr. President, the committee's unanimous judgment was that Governor Rockefeller, in all critical areas of concern, fully met the reasonable tests and standards that Congress should apply.

Mr. President, I would like to point out that at no time in history has a candidate, I believe, or a nominee, for any public office, ever been subjected to the detailed investigation, the detailed inspection, that this nominee has had during the period of time we have been investigating.

I would point out that he has made a full disclosure of his assets. It is a fact he does hold tremendous wealth and that wealth could be used for ill or good.

But in the case of this nominee's 15 years as Governor of the State of New York, we did not find substantiated charges of the nominee using that wealth for ill rather than for good.

So, Mr. President, I would simply say, in closing, I think he has met the test. We do not have a choice between one person or another. It is a question of

confirmation or rejection, and I believe the nominee should be confirmed.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, it has given me no personal pleasure to question the nomination of Mr. Rockefeller. He is an affable man. He has many and powerful friends, both in this Senate and elsewhere. Confirmation of his nomination to be Vice President has been described as a foregone conclusion from the outset.

As a matter of fact, one or two of my own friends have counseled me, in fact, to lay aside my doubts, and to retreat from raising questions. They have suggested that my own "political future" may be in jeopardy unless I consent to this nomination in silence, regardless of my convictions in the matter, regardless of my conscience.

This, Mr. President, I cannot and will not do—in this or any other matter. The very fact that I have received such well-intentioned counsel from one or two friends is, in itself, an illustration of what I have tried to say in three consecutive daily presentations on this Senate floor—on Wednesday and Thursday of last week, and on yesterday. The question of Mr. Rockefeller's economic power—and his application of it in the political arena—obviously is of concern to many Americans.

I have tried to set forth, factually and fairly, the lack of candor I have detected in Mr. Rockefeller's testimony about his activities of the past, as contrasted with other clear evidence which I spread on the record on the aforementioned three occasions. Mr. Rockefeller was not frank with the Rules Committee in discussing his association with L. Judson Morhouse, and gave misleading testimony about the need for the benefits he heaped upon this individual who misused the public trust.

Indeed, it is my judgment that his whole system of lavish gifts to his subordinates in government sets up a network of private relationships that undermines public confidence in government.

But beyond all that, Mr. President, is the inescapable truth that Mr. Rockefeller simply does not represent what the rank-and-file American people want in leadership of their country. The polls show it, the mail that every member of this Senate has received shows it, almost every contact I have with people back home shows it.

The people are fed up with big spending by their governments. The 1972 mandate clearly disclosed an awareness among the American people that big Government spending must be curbed if we are to have any hope at all of curbing inflation.

Mr. Rockefeller's record as Governor of New York is clear. My previous statements during the past several days have detailed the enormous debt that was run up while he was Governor.

It is highly significant, Mr. President, that billions and billions of the taxpayers' dollars which Mr. Rockefeller spent in New York were spent by circumventing the constitution of New York and evading a direct vote from the people themselves on long-term debt commitments. The people of New York are no different from the people of the rest of the Nation; they resist mortgaging their future for the spending schemes of today's politicians. At a time when inflation is the major concern in this country, we do not need a Vice President whose major record of public service was built upon creating over $7.7 billion in long-term debt that was not submitted to the constitutional processes of his State by consulting the will of the people.

So, Mr. President, I am frankly concerned about what the working men and women of America think about their country—the people who have seen their security undermined by rampant inflation, the people who keep this country going by working for a living and paying their taxes, and sending their sons and husbands off to war when it has been necessary.

They, Mr. President, are the victims of the big-spending philosophy that has controlled this Government, often against the people's desires.

Mr. Rockefeller's tenure as Governor of his State has placed him squarely and inescapably in the camp of those who have insisted that Government can spend a country, or a State, into prosperity. We make a mistake, Mr. President, when we delude ourselves into ignoring this assessment of Mr. Rockefeller as it exists in the minds of so many Americans.

I do not fault Mr. Rockefeller for having been born wealthy. Wealth should not preclude a citizen from holding high public office, but neither should it guarantee him such office in contradiction of the wishes of the majority of the American people. The vast majority still must labor for their daily bread, and agonize to find enough money to send their kids to college, and deprive themselves of their hard-earned salaries to pay taxes to finance the big-spending philosophies of those in public office who would solve every problem by throwing millions and billions of tax dollars at it.

Once again, Mr. President, I realize that I am in a decided minority as we prepare to vote on the nomination of Mr. Rockefeller. And my friends who are concerned that I am placing my "political future" in peril may be right. If so, so be it. I desire no "political future" at the price of acting in violation to my beliefs as to what is best for my country.

Mr. COOK. Mr. President, I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, in this rather awesome choice which we have to make respecting a Vice President of the United States two things stand out: one, our country needs a Vice President; two, there is also a question of the office itself and its service to the country.

In this particular case, the general feeling is that at this juncture in our affairs, national and international, the President has made a very important choice. I thing that is more useful a word in this context than either "splendid" or any other adjective of that character.

This is an important choice because this is an important man who has had a world reputation, earned over 30 years or 34 years of active participation on a level in which only Presidents engage.

Certainly, if you add up the score on Nelson Rockefeller, as a man who has been subjected to these strains and to these responsibilities, one is going to find a lot to find fault with, with which many can agree, but if that were not the case, Mr. President, he would not be what he is and where he is and he would not have done anything.

Sure, he has made mistakes, and as Fiorello LaGuardia used to say, "He has made some beauts."

But he has also made some very significant contributions to the life of our times and to the life of the world and remains able and capable of making more. That is the net of the argument.

Therefore, Mr. President, based upon 30 years' experience with the man, as a Governor of New York, as a friend, as a philanthropist, in every capacity in which one man can know another, I commend him to the Senate for confirmation as Vice President.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I rise to support the confirmation of Nelson Rockefeller to be Vice President of the United States.

I am regarded as a member of the conservative wing of my party, although I do not think we have clear-cut dichotomies in the Republican Party, and I have found during an ad hoc committee effort over the past week in service with Senator JAVITS and others that there is a wide range of unanimity of spirit and philosophy among Republicans.

But accepting what they do for their own convenience, being a conservative Republican and Nelson Rockefeller being a liberal Republican, I want to make it clear that this is one conservative Republican who thinks that Nelson Rockefeller is one of the finest public servants that this country has ever had.

I think to question his motives because he is a man of great wealth in unfortunate. It is my observation that most of the men of great wealth in this country are really totally uncorruptible. Just as poverty should be no barrier to potential achievement in this world, neither do I think that wealth should be an impediment.

I think, too, that regardless of what one might say of the rapacity of some of Governor Rockefeller's forebears, one must concede that this generation of the family has been very responsible in the stewardship of wealth. There is no family in this country that has supported more worthwhile philanthropic enterprises than the Rockefeller family.

Beyond that, I think that a great deal of attack on Governor Rockefeller has been an attack on wealth itself.

I might remind my colleagues that if it

were not for wealth, there would be no capital, and if there were no capital, there would be no jobs.

I am grateful that in this free enterprise society some men have accumulated wealth which has been transferred into capital, which has made us the most progressive country and the most technologically superior and productive country in the history of mankind.

Nelson Rockefeller has served his State and his country well in previous capacities. He has proved himself as an administrator, he has proved his complete public integrity, he has proved to be a man of impeccable honesty in the stewardship of the people's power and he should be confirmed by the Senate.

Mr. COOK. I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, John Nance Garner once delivered himself of this earthy comment: "The Vice Presidency isn't worth a pitcher of warm spit."

Through the operation of the 25th amendment, two outstanding leaders, Mr. Ford and Mr. Rockefeller will have elevated to the office of Vice President. But its important to observe also, I suggest, that in the process the office of Vice President, itself has been elevated, too.

I take some issue with the distinguished Senator from Indiana (Mr. BAYH), who helped to author the 25th amendment. Earlier he said something to the effect that the 25th amendment stands as a substitute for election by the people of a Vice President.

I believe it is important to keep in mind that, prior to the adoption of the 25th amendment, there was no procedure at all for filling the office of Vice President when it became vacant.

But the 25th amendment has a lot to commend it, even if you compare it with the normal procedure for selection of a Vice President. Ordinarily, the nominee for Vice President is packed in a smoke-filled room about 2 o'clock in the morning, after the candidate for President has finally won his party's nomination at a convention. The Presidential nominee gathers some of his advisers together, under great pressure, because he has a relatively few hours before it will be necessary to announce his choice to the convention.

The candidate for Vice President, often as not, is selected because he will balance the party's ticket in some way. Sometimes, the selection may even represent the payment of a political obligation of sorts.

Throughout the campaign and election which follows the normal selection process, a Vice Presidential candidate would never be subjected to the examination and scrutiny which takes place under the 25th amendment.

Some object because a Vice President confirmed under the 25th amendment is not elected by the people. But they overlook the fact that selection of a Vice President under the normal party convention procedure—and even the election which follows—allows very little choice to the people. The voters choose between candidates for President, but it is seldom that their choice really turns on the candidate for Vice President.

Accordingly, it can be said that under the 25th amendment, the people, acting through their elected Representatives and Senators in Congress, may have a larger, more effective voice than is the case under the regular procedure.

Accordingly, I believe the 25th amendment has stood the test well. I believe it is remarkable and encouraging that its operation has produced for service as Vice President two of the ablest, most competent leaders—in Gerald Ford and Nelson Rockefeller—among those available on the American scene.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield 3 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wish to compliment the chairman of the Committee on Rules, the members thereof, and the staff of the Rules Committee on the very thorough study that was given to this nomination.

The nomination of Nelson A. Rockefeller to be Vice President of the United States initiated the most intensive investigation in history into the qualifications of a man to serve as Vice President. The Committee on Rules and Administration held eight public hearings on the qualifications of Mr. Rockefeller in order to make public all pertinent testimony regarding Mr. Rockefeller so that the American people would have the opportunity to judge those qualifications for themselves. Recognizing that the confirmation hearings would be the only means to make available all pertinent information concerning this nomination to the people—who have no vote on the nominee for Vice President—the committee developed an extensive record on the nomination.

Because I felt, along with all the other members of the committee, that the committee had a duty to report the nomination to the full Senate for its judgment, since under the 25th amendment to the Constitution the Congress acts in the place of 140 million eligible voters, I voted to report the nomination favorably to the Senate. At the same time, however, I reserved my right to vote for or against the nomination on the floor of the Senate, as did other committee members.

In the time following the committee's action, I gave serious consideration to the unresolved troublesome matters which had concerned me throughout the hearings. I shall vote for the nomination. My decision to vote for this nomination is based on the following beliefs—the United States needs a Vice President; Nelson Rockefeller is a man of proven executive experience and ability; he is the President's choice; and unresolved doubts should be resolved in favor of the nominee.

The question which troubled me the most with this nomination was the propriety of Mr. Rockefeller's gifts and loans to public officials while he was Governor of New York. The gifts and loans draw sharply into focus the specific examples of the generalized problem of the combination of great economic power and great political power.

There are two considerations to be given to the gifts and loans—one legal and the other ethical.

While Mr. Rockefeller was Governor of New York he signed into law two statutes which are pertinent to an examination of the fitness of this nominee to be Vice President.

Section 73 of the Public Officers Law—46 McKinney's Consolidated Laws of New York Annotated—effective January 1, 1966, provides in relevant part, that—

> 5. No officer or employee of a state agency, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of twenty-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

The law also prohibits making such gifts:

> No person shall, directly or indirectly, offer or make any such gift to any officer or employee of a state agency, member of the legislature or legislative employee under such circumstances.

On September 1, 1967, New York Penal Code section 200.30 took effect. The law covers giving of unlawful gratuities:

> A person is guilty of giving unlawful gratuities when he knowingly confers, or offers or agrees to confer, any benefit upon a public servant for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation.

Because of various gifts and loans by Mr. Rockefeller to public officials of the State of New York, the details of the circumstances surrounding the gifts and loans were carefully drawn out in the hearings. While it was not the function of the committee to act as a jury on the questions raised by the statutes and the gifts and loans, it was the duty of the committee to elicit all available and pertinent facts concerning the gifts and loans as they applied to the essential elements of the criminal statutes in effect in New York at the time.

The circumstances of the gifts and loans to at least three of the recipients—Dr. William J. Ronan, Mr. Edward J. Logue, and Mr. Henry L. Diamond—made a close examination of the facts of those cases necessary in light of the New York statutes.

In these instances, the critical fact which remained unresolved was whether the intent on the part of Mr. Rockefeller when he made the gift or loan was to reward official conduct under the "tipping statute," or whether it could reasonably be inferred that the benefit was intended to influence the recipient in the course of his official conduct under the "bribery statute."

In the final analysis, I felt that these questions must be resolved in Mr. Rockefeller's favor. He and the recipients testified that the gifts and loans were not for official acts but rather were made out of friendship and esteem, and the

committee could find no hard and conclusive evidence to the contrary.

Beyond the legal questions arising from the statutes, the ethical question surrounding the gifts and loans is one that is even more difficult to resolve.

Is it beneficial to our society when a man of great wealth uses that wealth to surround himself with men who might not be able to serve in public life without such financial assistance?

Perhaps it could be argued that it is clearly an advantage to society in general to keep talented men in public positions who could not otherwise remain therein without such financial aid if they can do so without sacrificing their independent judgment or their sense of duty to the people—whom they ultimately serve. If the recipient were to be financially aided by a general fund held by the Government for such purposes, for example, where certain criteria were to be met for the assistance and where no individual could approve or reject an application on his own initiative, there would not be the fears that must now be expressed about individual generosity.

But where an individual either takes a public position or remains in it, due to the generosity of his donor, beyond the stipend set by the county, or municipality, or State, or Nation he serves, his actions in that official position become somewhat suspect whether or not the donor's interests are involved, even if the donor is the official who can fire him at will. The authority to hire and fire and direct policy still does not give a superior the absolute power to make his subordinate do his wishes concerning matters in which the subordinate feels he cannot, in good conscience, follow his superior's orders. The subordinate may state his objections, argue the side of the case he feels is being neglected, and, failing in all of this, he might resign, thus focusing public attention on what he considers an injustice. The events, for example, surrounding the Saturday night massacre in October 1973 should illustrate vividly that the ability to hire and fire and direct policy does not alone carry with it the ability to make a man of strong character do the bidding of his superior in all matters.

A public official in the executive branch carries a difficult burden. He is primarily responsible to his superior, but he is also responsible to the constituency which his position must represent, and there are times when those responsibilities conflict. The added burden of appreciation for financial assistance to his superior would increase the tendencies of most men to "do what the boss wants" rather than to contend for a position that is inconsistent with that of a superior.

There was no conclusive evidence that Governor Rockefeller had such an intent with the gifts and loans he made to public officials who served under him in New York, and I know he is now aware that actions such as he has taken do not always appear the same as they may have been intended. The compensation of public officials should be a matter for public determination rather than for private determination, and the making of such gifts and loans by Governor Rockefeller, under the circumstances, ran the risk of undermining the integrity of government.

The combination of great wealth and great political power is a factor which requires careful scrutiny whether by the Congress under the 25th amendment, or by the electorate during a regular election.

I raised this question during Mr. Rockefeller's first appearance before the committee. In his second appearance before the committee, he raised the question himself. It is a question that cannot be answered simply by a written or oral response. So many imponderables are involved as to make the answer await the events of time.

Now, as to the Goldberg book, I do not condone the printing of such a book or the public statements that were made with respect to the financing of the book, before the full facts concerning the publication of the book and the financing of that book came out during the hearings.

But Mr. Rockefeller admitted his mistake and he stated that what he had thought was the truth was stated by him at the time, but that the facts which he considered at the time to be true later turned out not to be correct.

He made a mistake, he admitted to it, he apologized for it, and, as far as I am concerned, I do not think the matter should be further pursued.

Even though certain aspects of this nomination still trouble me, I shall vote to confirm Mr. Rockefeller.

As I have said, the country needs a Vice President, Mr. Rockefeller is the President's choice. We have thoroughly gone into all of the questions that were raised. Based upon the evidence that we have been able to elicit, I cannot personally find any justification for voting against Mr. Rockefeller.

He is a man of ability and wide experience. I feel that, in my own case at least, I have a responsibility, on the basis of the record, to vote for this nomination.

Mr. PERCY. Mr. President, I am honored to indicate my enthusiastic support for Governor Nelson A. Rockefeller to be the next Vice President of the United States. I have personally known Governor Rockefeller for more than two decades. I supported him for President of the United States in 1968. I believed then that his talent, ability and experience made him the most qualified person to bring this country together and provide leadership. For the same reason, I believe that he is eminently qualified to be Vice President of the United States.

I believe he has the capability to provide great leadership for America and make an invaluable contribution to the Ford administration at this critical time in our history.

My own effort to explore the possibility of seeking the Republican Presidential nomination in 1976, an effort which has been halted, in no way detracted, as I mentioned to Governor Rockefeller at that time, from my great esteem and my high regard for him in every respect.

I had the pleasure of serving with him on the main panel of the Rockefeller brothers' study project in the late 1950s under the able guidance of Henry Kissinger who served the study as staff director. Today, another Rockefeller panel, the Commission on Critical Choices for Americans, is preparing a set of studies from which we can draw as we face the vital issues of our time.

Governor Rockefeller is familiar with a large reservoir of talent throughout the country. I believe he can attract some of the Nation's most creative minds to this administration and recommend them to the President.

A word about Governor Rockefeller's gifts seems appropriate. In all the experience I have had with him, I have known him to be a generous man who acted with sensitivity toward his friends and associates. In retrospect, some of his gifts may have been errors in judgment. But I have never known him to act with anything less than the best intentions.

Governor Rockefeller will make a great Vice President. I enthusiastically endorse his confirmation and urge my colleagues to join me in giving him a strong vote of confidence.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. COOK. Mr. President, how much time do I have?

The PRESIDING OFFICER. Four and a half minutes remain.

Mr. COOK. Mr. President, we started this nomination on the 21st of August of this year. We are now in December, and the country awaits a Vice President. I looked around and listened to these remarks and I think to myself that there is some substantial wealth in this body. I expect it influences those individuals. I expect that it imparts influence on some colleagues during the course of debates and discussions.

What amazes me, I believe, Mr. President, is that here is a man who had great wealth the minute he was born. He could not have gotten away from it, I suspect. He need not have done anything except to enjoy that wealth.

Here is a man, because he believed in his country, believed deeply in this system, who started under President Roosevelt, at the request of that President, to aid and assist his country. He then has worked for every President since in one role or another, in various departments, and on trips throughout the world. He even made a trip at the request of a President to go through South America. He picked up experts and then found out that he could not even take tax deductions for those expenses. Yet he spent them for this country.

Then we say that here is a man who we have enjoyed being a volunteer, who we have enjoyed working for the State Department, enjoyed working for HEW, enjoyed being an ambassador to go here and there to help solve the problems of the United States, and our position in the world. But when his nomination comes here, that is another matter.

There are people who, I might suggest, have probably written letters to the various foundations that have tremendous Rockefeller sums saying: Would you help this facility, that facility, this university or that college, this program or that program.

That is all right. But then it comes to saying to an American citizen who has

every right and every obligation to this country as all of us have, "We do not know whether we want you to be Vice President of the United States."

He has held what is considered to be the second highest position in the United States for four terms by the vote of the people of his State. That was as Governor of the State of New York. I think the closest race he was ever in he won by over 700,000 votes. That ought to tell us something.

Obviously, all the wealth that we know now about they knew in that State. All of the things that could have occurred could have occurred as a result of a man being chief executive of the largest State in the United States.

I can only say to you that it disturbs me as someone who came to the Senate with very little and leaves with a bigger debt, and securities that are worth half what they were worth when I came here—and their total value when I came here was not a great deal, Mr. President—it disturbs me that we would stand in this Chamber and condemn wealth in the United States.

It disturbs me that we would say that I would not encourage my children to do the very best they can, and to the best of their ability, to try to excel in a free enterprise system in the United States.

I might say that, unlike the Senator from Illinois, I really never knew Mr. Rockefeller until these hearings started. I have now read, I believe, 8,000, 10,000, or 12,000 pages about him.

The Senator from North Carolina said that Mr. Rockefeller ought to be criticized because he did not give us the full facts about his wealth, and yet one of the facts that we now see that increased his wealth was the fact that, out of approximately $60 million, he had deducted over $20 million of what he had left to give as gifts to various institutions throughout the United States.

Is that a strange remark to make about so much money?

Of this tremendous family, 87 of them share this wealth, and yet we saw a man die the other day in Texas who, in his own right, was worth, we estimate, some $3 billion.

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

Mr. COOK. Will the Senator yield an additional 30 seconds?

Mr. CANNON. I yield.

Mr. COOK. I want to thank Senator CANNON, who did a remarkable job on the Rules and Administration Committee, and all of my colleagues—Senator BYRD, Senator ALLEN, Senator GRIFFIN.

I want to thank Joe Leary, of my staff, who did a remarkable job on this nomination, and I want to thank the members of the majority staff who worked long, long and hard on this.

May I say we now have a nomination before the Senate that deserves to be confirmed.

Thank you, Mr. President.

Mr. STEVENSON. Mr. President, I intend to vote for the confirmation of Nelson Rockefeller as Vice President. This vote does not mean that I agree with the nominee on all or even most questions of public policy, nor does it mean that all of my doubts have been put to rest on the questions that have been raised during consideration of his nomination. But I have concluded that on balance the best interests of the country would be served by the confirmation of Mr. Rockefeller.

Even the most severe critics of Governor Rockefeller acknowledge his skill and effectiveness as an administrator, demonstrated in his 15 years of service as Governor of New York. His work in State government is only the most recent endeavor in a long history of public service beginning with his appointment as Coordinator of Inter-American Affairs under President Roosevelt in 1940 and continuing without interruption until the present. His wide experience and proven effectiveness will be welcome benefits in this administration.

Questions have been raised about the nominee's gifts to persons both in and out of New York State government during his tenure as Governor. I shared that concern and carefully reviewed the hearings of the Rules Committee into this matter, and I cannot conclude that these gifts disqualify the nominee. The committee could find no indication that any of the gifts were offered or received with an understanding that some official action was to be taken in return. Such a great number of large gifts may be unique in American history, and understandably raise suspicions. But this matter must be judged in the context of the great wealth and long tradition of philanthropy of the Governor and his family.

As to the campaign biography of Justice Goldberg financed by the nominee's brother, there has been no challenge to Governor Rockefeller's account of his involvement—an involvement amounting to a 15-minute discussion in the heat of a campaign with the promoter of the book, after which the promoter was referred to Laurance Rockefeller's office. I cannot and do not condone such campaign tactics, but I also cannot conclude that this brief episode in one of four campaigns for Governor and three for the Presidency requires rejection of the nominee.

Some have argued that the nominee's great wealth alone should disqualify him because of the inevitability of conflicts of interest between his private fortune and his public responsibilities. This is a view that I do not share. I believe that a man of integrity can decide public issues on their merits regardless of his private concerns, and the fact is that throughout the exhaustive investigations into the nominee's background, there has been no serious allegation that he attempted to use his political power to enhance or preserve his private fortune. We have had men of wealth in high national office before, although perhaps not wealth of the same magnitude, and some of these have been among our best public servants. Indeed, a man of wealth may be more immune to corruption than one still seeking financial security. I am not prepared to adopt a rule excluding the wealthy from public office regardless of their personal merit.

I have not always shared the nominee's views on such issues as abortion, busing, and military spending. I am disturbed at the suggestion of latent cold war mentality evidenced by such things as his promotion of bomb shelters in the late 1950's and the reluctance of his support for the 1963 Test Ban Treaty. But the President has the prerogative to choose a Vice President who shares his philosophy, and no nominee of this administration is likely to reflect my own views. Although I may have differences of opinion with the nominee, none of his views are outside the realm of reasonable public debate, and there is little more that I can demand. Governor Rockefeller has shown himself both thoughtful and flexible about matters of public policy, and responsive to the comments of the talented people he seeks out for advice.

Indeed, Governor Rockefeller's record of seeking out able and informed advisors to join Government service is an important qualification in itself. The Nixon and Ford administrations have been sadly incapable of attracting or keeping capable persons in Government, and this is one area in which Governor Rockefeller could make a substantial contribution. It is worth noting that Secretary Kissinger—probably the most talented man in this administration—is an alumnus of the Governor's staff.

Finally, I am concerned about prolonging the agonizing period of instability in our national leadership that began with the Watergate affair. Fourteen months ago today a Vice President resigned in disgrace, and just over 4 months ago a President resigned in similar circumstances. We have been without a Vice President for the last 4 months, and for 6 of the last 14 months. To reject the nomination of Mr. Rockefeller now, without substantial reasons for doing so, could not help but serve to further undermine confidence, both here and abroad, in the Government of the United States.

I shall, therefore, vote to confirm Mr. Rockefeller and to get on with the business of Government.

Mr. WILLIAMS. Mr. President, we are here today to determine whether an individual, nominated by the President, is qualified to serve as Vice President of the United States. We find ourselves in this position for two unique and distinct reasons:

First, because section 2 of the 25th amendment to the Constitution requires that in the case of such a vacancy "the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress." Thus, our decision today will be in fulfillment of our overriding obligation to carry out this unequivocal constitutional mandate.

Second, because in a period of less than 18 months this Nation has been deeply shaken by the resignation of both its elected President and Vice President for the very reason that they acted in utter defiance of their overriding obligation to abide by the constitutional mandate "to take care that the laws be faithfully executed."

When Nelson Rockefeller was nominated to fill the position of Vice President, the Congress of the United States was faced with an awesome task. For not only are we required to act on behalf of a constitutionally disenfranchised elec-

torate to assure that this man meets the standards which qualify him for this high office; but we also are acting with the full knowledge that Nelson Rockefeller was appointed by a President who, himself, was appointed—not elected—to lead our government. And it is for these reasons—combined with the unprecedented implications of the potential wedding of the nominee's enormous wealth with great political power—that the Committee on Rules and Administration has engaged in perhaps the most intensive indepth confirmation inquiry ever conducted by a committee of the U.S. Senate.

Mr. President, this nomination was sent to the Congress on August 20, 1974. Since that time our investigation has involved the work of more than 300 FBI agents, hundreds of Internal Revenue Service employees, and countless numbers of staff members of the Library of Congress, the General Accounting Office, and various committees of both the House and Senate. In addition, the Senate Rules Committee held 8 long days of public hearings and listened to 47 witnesses who were examined with respect to Governor Rockefeller's character, political views, and his personal and public activities throughout his adult life. And of equal importance, I and all of my colleagues on the committee have carefully listened to the views of thousands of individual citizens who have expressed themselves either by mail or in personal conversations.

There can be no doubt that the major concern about Nelson Rockefeller's fitness for office has been his massive financial resources. Virtually every possible debilitating issue raised with respect to the nominee has been an offshoot of the fact that he possesses a degree of wealth which is beyond the wildest expectations of all but a handful of individuals in this Nation. The questions of potential conflict of interest, of income taxes, of his loans and gifts to others, of political contributions, and of other of his activities such as the financing of "the Goldberg book," all arise because of the vast amount of money which he and his family control.

Mr. President, I do not believe it would be useful here to go into depth about each and every aspect of Governor Rockefeller's activities which the committee explored. The committee report discusses our major concerns at length, and I find myself in substantial agreement with the discussion and conclusions found in this report. In addition, the hearing record is an extensive one, and I think that my colleagues and the public as a whole will find that all of these matters—and more—were examined at great length and that the committee allowed all viewpoints on Mr. Rockefeller's qualifications to be heard.

What I think is of utmost importance, however, in judging this nominee, as well as all potential holders of great office and great power, is the question of whether such individual has in the past and will in the future exercise the necessary degree of care and sensitivity toward the people who have conferred upon him the responsibility and privilege of making decisions which will affect their lives and the lives of generations yet to come. Now there is no question in my mind that Nelson Rockefeller has had an enviable and distinguished record of public service. He has served five Presidents and was elected four times as Governor of New York State. He has contributed hundreds of thousands of dollars to numerous educational, cultural, and social causes. He has been a leader in his party and has taken courageous stands on many of the most difficult and controversial issues of our times. In all of these things he is to be commended.

Yet, at the same time, Governor Rockefeller has involved himself in certain matters which have shown some degree of thoughtlessness and bad judgment. Most particularly in this regard were his role in the Attica prison uprising, his involvement with the Lasky biography of Arthur Goldberg, and his gifts and loans to public officials. Taken together and when measured against the totality of Nelson Rockefeller's lifetime accomplishments, it might be said that we should dismiss these matters as insignificant aberations of conduct and character. Yes, it is true—all of us do make mistakes.

However, in my view, these occurrences must be examined not so much for the specifics of what was done, but for their broader meaning. And for me that meaning is that at the time these events took place, Nelson Rockefeller did not fully appreciate or have an adequate understanding of how his actions might be and would be viewed by the American people. And while I have no doubt that Mr. Rockefeller had no venal purposes or ulterior motive when he set these events in motion, I do feel that he manifested an unfortunate measure of carelessness and insensitivity in these matters. And, before I could cast my vote to favorably recommend that Nelson Rockefeller be confirmed, I felt most deeply that he must show us—the Congress—and the American people that he has the capacity to sharpen his sensitivity and that his actions in the future will unquestionably reflect more sensitive judgments.

Mr. President, it is impossible for any of us to know with certainty why Nelson Rockefeller did not earlier recognize the disquieting effect his actions could have on the American people. Indeed, I saw this as a most peculiar phenomenon in view of his record in human needs efforts such as education, health, urban development, employment, and the like. But having listened to 4½ days of the nominee's testimony and having observed his demeanor throughout these hearings, I believe that Governor Rockefeller has developed a keen awareness of the degree of care which he must exercise if he is to have the people's trust.

With respect to Attica, he admitted that he made a grievous mistake by permitting State troopers to enter the prison grounds with loaded firearms. With respect to the Goldberg biography, he made clear that he had exercised carelessness and poor judgment—and he unequivocally apologized for it. With respect to the gifts and loans he recognized that his desire to be helpful gave rise to deep and legitimate concerns and that giving such large sums of money could have a profound effect upon the attitude of the beneficiaries of his largess which could be to the detriment of the people who they were appointed to serve. And, with respect to the overall influence of his and his family's wealth, I strongly believe that Governor Rockefeller has come to learn that even if he saw this influence as "mythical," the people do not view it so inconsequentially, and they have had grave reservations about its potential effect. Indeed, after the abuses of public trust manifested during these years of Watergate, the American people have every right to expect that we do everything in our power to safeguard against the use of constitutional office for personal and family benefit to the detriment of the public good.

Mr. President, I truly believe that in the 113 days since his nomination, Nelson Rockefeller has learned some great lessons—and these lessons have been learned the hard way in an ordeal which has forced him to rethink his approach to many of the important questions which have been raised by his nomination. And of utmost importance, I believe that this ordeal has brought him in closer touch with the feelings and needs of the people he will be serving as Vice President. This is the most invaluable education any person can have.

Of course, Mr. President, there are many who will question whether any man can really change his viewpoint and develop deeper sensitivities in less than 3 months' time. We have all become somewhat cynical about lofty public statements which have not been backed up by real and visible action. Those of us in political life are especially sensitive to this problem. And it is for this reason that Nelson Rockefeller must understand that, should he be confirmed by a healthy margin, his ordeal will not be ended. He will not be able to then ignore the lessons which he has said he learned during this confirmation process. As one Senator—and I am certain that it is true of many of my colleagues—I intend to pay particular attention to his course of conduct with the firm expectation that he will demonstrate that what he has said to us since August has real meaning for him. I have confidence that Nelson Rockefeller is a man of high integrity, and I am certain that he can and will serve our Nation well.

Mr. President, I would like to add one final note. As a member of the Rules Committee I have now participated in two investigations with respect to the nomination of two men to be Vice President of the United States. In both cases I have felt the heavy burden imposed by the 25th amendment which requires the Congress to exercise its judgment as a substitute for the elective process. In each instance this has been an arduous task, but all of us have labored to the best of our ability. In neither case can it be fairly said that we have shrunk from our responsibility.

I do think, however, that in the unique case of the Vice President we must—in the immediate future—carefully rethink whether this is the proper way to proceed. I am deeply disturbed that in these com-

plex and difficult times the American people themselves are denied the opportunity to make this decision directly. After a careful examination of Nelson Rockefeller's record, I think that he is highly qualified to serve in the position as Vice President of the United States. I join unreservedly in the committee's recommendation. I do feel, however, that this is a decision which more appropriately rests with the electorate as a whole and we must find a better way to reach that objective.

Mr. MONDALE. Mr. President, the consideration of the nomination of Nelson Rockefeller to be Vice President of the United States by the Senate Committee on Rules Administration probably represents the most careful and in-depth confirmation inquiry ever conducted by a Senate committee. This particular confirmation inquiry was enormously difficult in view of the nominee's enormous wealth, complicated financial holdings, and long record of public service.

Yet, for the second time in less than 1 year, the Rules Committee has performed its important responsibilities in the context of a Vice Presidential nomination with dedication, seriousness, perceptiveness, and dispatch. I wish to compliment the distinguished chairman (Mr. CANNON) and the members of the committee for a job well done and thank them for providing all of the Members of the Senate with the material necessary to the exercise of our important responsibility under the 25th amendment.

We in Congress are given a most solemn responsibility under the 25th amendment. For the people, we must examine and approve a Vice President—and potential President—of the United States. We are charged with substituting our judgment for the judgment of 98 million American voters in confirming the Vice President.

Our responsibility would be awesome under any circumstances. But, in the aftermath of Watergate—just as the people are scrutinizing potential officeholders extra-carefully—so too we must be especially careful as we approve a new Vice President.

The public is tired of secrecy and manipulation. The public is fed up with abuse of official power. The public will not tolerate conflict of interest. The public wants no more of "dirty tricks" or scandals. The American people want leaders who are open, honest, compassionate, and dedicated to working toward solutions for the problems facing this Nation.

In light of the context in which we consider the nomination of Nelson Rockefeller and the importance of our responsibility, I have carefully followed the work of the Rules Committee, have communicated with the nominee himself, and have studied all available materials with utmost care.

I have concluded, Mr. President, that I will vote for the confirmation of Nelson Rockefeller. Mr. Rockefeller's service to local government, to the State of New York, and to the Nation extends over nearly four decades. He has made important contributions in the field of foreign relations—particularly inter-American relations; has worked in the executive branch of the National Government; has served as Governor of New York for 15 years; has served in public office at the local and county government level—has been a member of dozens of public and private task forces, commissions, and advisory bodies; and has worked on behalf of many charitable and humanitarian causes.

This country urgently needs a Vice President. President Ford has nominated Nelson Rockefeller and has indicated his belief that he will be able to work well with his nominee. Nelson Rockefeller has the ability to serve in that high office and has told of his desire to work with the President for the public good.

I must add, however, that I have reservations about this nominee and that certain questions concern me. As we all know, Nelson Rockefeller is an enormously wealthy man. His assets and those of his immediate family total approximately a quarter of a million dollars. The assets of the entire Rockefeller family exceed $1 billion.

The Rockefeller investments, moreover, are concentrated in industries and companies whose profits often turn on governmental decisions. One need only look at the list of Rockefeller holdings—Continental Oil Co., Exxon Corp., Marathon Oil Co., Mobil Oil Corp., Standard Oil, Dow Chemical, General Electric, IBM Corp., and Gulf Oil.

The Rockefeller wealth and the location of that wealth raise a significant conflict of interest question. Can the nominee—as Vice President or President—make decisions free of personal, economic considerations? I believe the distinguished Rules Committee chairman (Mr. CANNON) expressed my concern well when, during the hearings, he stated:

(T)he economic power which you and your family exert directly and indirectly upon the domestic and international economy in oil, real estate, banks, insurance, and many other endeavors, gives rise to a question which must be paramount in the minds of many citizens. That question is: How can you conduct yourself in office in a manner that would avoid even the appearance of conflict of interest when decisions you will be called upon to make cannot help but influence the profits and losses of one or more of your holdings?

In addition, I am most concerned that this vast economic power, when combined with the political power of a Vice President or President, may create grave potential for abuse. The distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) put this question well during the hearings when he asked:

Would the combination of these two—great economic wealth plus great political power—in your judgment clothe the office of the Vice Presidency or the Presidency with an inordinate great power, certainly a far greater power than either of those offices would ordinarily clothe the average occupant whose financial means is much less than yours?

These general concerns trouble me greatly. I trust and believe that public awareness, public disclosure, Mr. Rockefeller's sensitivity to the potentials inherent in his wealth, and steps which he might take in light of this awareness can remove any problems which might exist.

There are two more particular matters which concern me also, Mr. President, and about which I would like to comment briefly. First, the Rules Committee has spent a great deal of time inquiring into Mr. Rockefeller's role in the financing of a book about Mr. Justice Arthur Goldberg, who was Mr. Rockefeller's opponent in the election for Governor of New York in 1970. Even assuming Mr. Rockefeller did no more than become aware of the book and aid in securing financing for it, I fully agree with the Rules Committee when it concludes that—

Nelson Rockefeller exercised poor judgment when he was informed initially about the book and by his action gave tacit agreement to its publication.

At the worst, this incident represents conduct reminiscent of the Nixon era dirty tricks. The manner in which the truth about the incident was revealed raises grave doubts in my mind. I cannot excuse this matter; I cannot condone it.

In addition, Mr. Rockefeller has made several million dollars in gifts and/or loans over a period of 20 years to New York State public officials and others, including friends, aides, and political associates. The circumstances surrounding some of these gifts and/or loans raise serious questions of judgment and propriety. Aside from questions of their legality, I cannot ignore the questions of judgment and propriety.

I sincerely hope that Mr. Rockefeller has learned from these incidents. I sincerely hope that he will not engage in similar conduct in the future. The country cannot stand the consequences, and the American public will not stand for it.

If the work of the Senate Rules Committee and the other aspects of the confirmation process can serve as a learning experience for Mr. Rockefeller, we will all be the beneficiaries. Hopefully, he has seen the questionable nature of certain past conduct, and will act—or refrain from acting—accordingly. Hopefully, he is now aware of the questions which the existence of his enormous wealth raise and the potentials for abuse that go along with that wealth. He can act to remove those questions and minimize that potential. I hope that he will. Although I would favor divestiture, I understand Mr. Rockefeller will act to place his assets in a blind trust. Let us all hope that he will insure that the trust is truly blind and that even the appearance of impropriety will be removed.

Mr. President, I would like to close with one final point. During his confirmation hearings, Mr. Rockefeller uttered a very telling statement to the effect that a very large amount of money is to him as a small amount of money is to another. I sincerely hope that the former can truly appreciate the needs, hopes, problems, and concerns of the latter.

Dealing with the pressing domestic needs of our people at this time in history requires, in my opinion, a true sensitivity to those needs. Mr. Rockefeller lives in a word different from the world

of the average American. Above all else, I hope that he realizes this. I hope that he will, as Vice President of the United States, do all that is within his power to meet the needs—to solve the problems—of the citizens of Minnesota and the citizens of this entire Nation.

With this hope, I vote to confirm the nomination of Nelson Rockefeller.

Mr. MUSKIE. Mr. President, the hearings on the confirmation of Vice President-designate Nelson A. Rockefeller have been concluded in the Senate, the Senate Rules Committee has unanimously reported out his nomination, and we must now make our decision.

On the basis of the facts now before us, and I believe we have enough to render a judgment. I intend to vote for confirmation of Governor Rockefeller to serve as the 41st Vice President of the United States.

I make this decision after careful consideration of the information disclosed during the Senate and House hearings and from my familiarity with Governor Rockefeller's 30 years of public service. In all these, I believe him suited for the Vice Presidency.

I see the record of a man who has dedicated his life to public service.

Governor Rockefeller has served five of our last six Presidents in both domestic and international posts. In these assignments, his record was marked with accomplishments.

As an assistant secretary of State from 1944 to 1945, he participated in the founding of the United Nations at San Francisco. In the 1950's he was chairman of a presidential advisory committee that recommended the establishment of the Department of Health, Education, and Welfare, where he later served as Under Secretary. Throughout a number of assignments that involved Latin America, Governor Rockefeller has had a major role in linking our two continents closer together.

As a former governor, I can appreciate Governor Rockefeller's toil for 15 years on behalf of the people of New York. I admire his accomplishments—and his stamina.

As Governor of New York, he applied a distinctive brand of imagination and leadership.

The benefits of his leadership extended beyond New York State boundaries, as well. With New York often leading the way, many other State governments learned to adjust to new challenges that called for new roles. Whether it was called "Creative Federalism" or "New Federalism," the transition to the new relationship between Federal, State, and local governments was made easier by Governor Rockefeller's efforts.

Were these the only matters for debate, Governor Rockefeller would have been confirmed long ago. However, they are not. The debate has centered on his personal wealth and the possibility that he has misused it.

Governor Rockefeller has been subjected to an unfortunate form of criticism. It assumes that the rich are unfit for public office, for no other reason than their wealth. Anyone who is wealthy is assumed to be insensitive to social problems and arrogant of the public's right to participate in Government.

There are many wealthy people who should not be Vice President, but the same could be said for many middle-income and poor people, and those of any sex, religion, race, occupation, and age. As the Washington Post editorialized:

> The point is simply that it is the character and qualifications of the individual that matter most and these are not the criteria that can be fairly applied on the basis of race or sex or social and economic background or professional experience, or regional origin.

As his record in office shows, Governor Rockefeller has the necessary character and qualifications. He has demonstrated in concrete and enduring ways that he is sensitive to the complex social and economic problems of the people.

He has been challenged most seriously with two specific misuses of his wealth: Presenting associates and friends with large gifts, and his brother's financing of a defamatory book about Arthur Goldberg.

These are both serious issues that merit careful consideration.

About the giving of gifts, Governor Rockefeller has stated that the purpose was to reward the service of longtime associates. While this is not a desirable way to run a government, Governor Rockefeller has demonstrated that personal gain was not the object of this generosity, and has acknowledged the legitimate questions it has raised by pledging no such gifts in the future, except to help friends in extreme need.

The book about Arthur Goldberg was a troubling incident. It was an unjustified smear of a man who has also dedicated his life to public service. It was a "dirty trick" that has no place in political campaigns between two men of such obvious stature.

I have thoroughly considered the incident in the perspective of this nomination. Governor Rockefeller has acknowledged the misguided nature of the decision to permit the book's financing. He has apologized. And there is little further he can do to repair the error.

Weighed against Governor Rockefeller's lifetime record, I do not find sufficient information to disqualify him from the Vice Presidency.

Instead, there is the overwhelming weight of a lifetime record of positive accomplishments that reflects his obvious dedication to public service.

I am now convinced that I can vote for confirmation in good conscience and with the public good in mind.

Mr. CHURCH. Mr. President, I have no doubt that Nelson Rockefeller would not have been nominated for Vice President by the people of Idaho, had the decision been left to them by the Constitution. Neither would he have been my choice, had the decision been left to me.

However, inasmuch as the 25th amendment confers upon President Ford the exclusive right to nominate for Vice President the man or woman with whom he wishes to serve, and inasmuch as the role of Congress is confined to that of confirming or rejecting his choice, our options are rather narrowly defined.

The occasion is extraordinary: the Congress is being asked to confirm an unelected Vice President, nominated by an unelected President. So we must be careful to bind our vote to moorings which will not only serve us now, but will set the precedent for the future.

The question we must ask is not whether Nelson Rockefeller would have been our personal choice for Vice President, but whether, as President Ford's personal choice, the nominee is qualified to serve. Let it be remembered that ours is an interim decision, filling the vacancy in the office only until our next national election, when the American people will once again choose for themselves.

Accordingly, I have reviewed the proceedings before the Senate Rules Committee, examined the testimony and carefully weighed the committee's report. I find nothing in the evidence upon which I could fairly conclude that Mr. Rockefeller is unqualified to serve as Vice President of the United States.

It is disappointing that Nelson Rockefeller, through association with his brother, became linked with the publication of a book which appeared to be a disinterested, objective biography of former Justice Arthur Goldberg. The book dealt unfavorably with Goldberg and was circulated at the time he ran against Nelson Rockefeller for Governor of New York in 1970. In actuality, the book was financed by money from the Rockefeller family, effectively concealed behind a corporate facade.

I find such tactics unworthy of a nominee for so high an office but, given the rough-and-tumble customs of American political campaigns, this particular misadventure is not sufficient, in itself, to justify a rejection of the President's choice.

As to the questions raised concerning Nelson Rockefeller's views on various public issues, there is no indication in the record that his positions, however controversial, have not been honestly taken. Frequently, I have disagreed with Mr. Rockefeller in the past, and I shall doubtlessly find new disagreements with him in the future. But I recognize that he is entitled to his views, as I am entitled to mine. A divergence of viewpoint is not a proper ground for a Democrat to vote against a Republican President's nominee, during the life of his administration.

There remains, of course, the question of the nominee's great wealth and personal power. The Rockefeller family possesses one of the largest fortunes in the world today. Does a person accustomed to such wealth lose his capacity to identify with the legitimate needs and aspirations of ordinary working people, that is to say, of the average citizen?

The way the Rockefeller fortune has been managed demonstrates that the family has not been unmindful that great private wealth generates a comparable obligation to support public causes. Few rich men have been more generous with their money than Nelson Rockefeller. The list of educational, cultural, and charitable contributions he has made is impressive, indeed.

As to whether Mr. Rockefeller's per-

sonal fortune constitutes an insurmountable conflict-of-interest with respect to the discharge of his duties as Vice President, the Senate Rules Committee has decided in the negative. The committee did not require the nominee to place his financial assets in a blind trust. In all fairness, it seems to me that this decision was sound.

Men of wealth have served as President and Vice President before; none has ever been required to sever his financial ties. President Kennedy, for example, was a man of considerable wealth, yet I have never heard him accused of using his office to fatten his financial portfolio.

Here in Congress, men of wealth serve today in both the Senate and the House of Representatives. But no Member has ever been required to give up financial assets or place them in a blind trust. For that matter, Congress has consistently refused even to pass an adequate disclosure law for its own Members, although the Senate did approve such a measure last year.

Yet, the full scope of the financial interests of the Rockefeller family has been revealed as a result of these confirmation proceedings. Because Nelson Rockefeller's assets and the source of his income is now a matter of full public record, I believe that any future action on his part, raising a conflict-of-interest issue, would be readily apparent.

Under these circumstances, we should not fall into the error of imposing a double standard. As we would not refuse the Office of Vice Presidency to a man on account of his humble means, so we should not deny the office to a man on account of his affluence.

Giving the President the authority to nominate a new Vice President when that office is vacant is in line with the traditional political practice—long honored—of allowing the Presidential nominees of the major political parties to select their own running mates. The vote we take today must be approached with this tradition in mind.

The question really posed is whether any grounds exist which clearly disqualify Nelson A. Rockefeller from serving as Vice President. In the absence of such evidence, I will cast my vote in favor of confirming the President's nominee.

Mr. TUNNEY. Mr. President, the nomination of Nelson Rockefeller to be Vice President has generated heated discussion, debate, and comment among Americans generally. This has been reflected in a large volume of mail and telegrams to my office. This public discussion is a vigorous demonstration of our democracy. In light of the great attention on our action today, I wish to share my own assessment of the issues which have been raised during the confirmation hearings.

Under the constitutional procedure instituted by the 25th amendment, the Congress has been given the responsibility for approving the selection of the next Vice President. In this endeavor, each of us in the Senate and the House is a substitute for the electorate of his or her State or district. But this does not mean that the process is a replacement for an election, for the confirmation process differs greatly from the normal electoral process.

Whereas in an election, the voter has a choice among two or more candidates, the Member of Congress in a confirmation is faced only with making a positive or negative judgment on a single nominee. There is no knowledge of what the alternative may be to the nomination before the Congress. He must review all the available information about the nominee, and determine if he possesses the necessary qualifications of background, judgment, and honesty. The Congressman or Senator must also determine if there is anything in the nominee's history which should disqualify him.

It is on the basis of these standards that I have approached the nomination of Nelson Rockefeller to be Vice President.

One argument which has been mentioned in my mail, although not much during the public hearings on this nomination, was that Mr. Rockefeller's previous three attempts to reach national elective office, none of which succeeded, indicated that popular opinion should foreclose confirmation at this time. Whatever reasons Mr. Rockefeller failed to achieve his party's nomination in earlier years, were principally because of political or personal factors, in competition with other men. Today, Mr. Rockefeller is presented on his own for this post, not in a referendum against others. While many persons, including those of his own party, might have a preference for another person to fill the post, the President's choice is the one which we must evaluate.

During the weeks of hearings and disclosures of information, several issues surfaced as being the most critical for Mr. Rockefeller's nomination. While in some instances I do not feel comfortable with Mr. Rockefeller's attitudes or actions, I feel on balance that he should be confirmed. His wide background in government on both the State and Federal level prepare him suitably for the varied tasks of the Vice-Presidency, and for the Presidency if that unhappy possibility should occur.

The most difficult problems in my opinion, revolved around the enormous wealth of the Rockefeller family. As to the overall question of wealth, I do not feel that even this great accumulation of funds and power disqualifies Mr. Rockefeller. Notwithstanding a total family fortune in excess of $1 billion, this is still a miniscule fraction of the wealth of the Nation, and in no way enough to be a lever on national policy. And certainly the family is not monolithic. There is no evidence that there would be conflicts of interest in the future, and there have been no cases shown of a conflict of interest over all the years of Mr. Rockefeller's public service in the past. I agree with the view of the Rules Committee that public disclosure of Mr. Rockefeller's financial holdings will serve to prevent conflicts of interest.

There is no doubt that Mr. Rockefeller has used his wealth and his family's wealth to further political causes, not the least being his own political ambitions. Mr. Rockefeller revealed that he used some $2 million of his own funds, and received contributions from members of his family totaling over $13 million, in seven campaigns for Governor and national office. Something over $1 million was contributed to other candidates. While these sums are extremely large, there was no illegality in the contributions. If they were wrong as a matter of policy, then the fault lay in the lawmakers who expressly allowed them. It is unfair to blame Mr. Rockefeller; instead, the answer is to limit the use of personal funds in campaigns, and to limit private giving, as the Congress has done this year.

The other question raised by Mr. Rockefeller's wealth was the matter of gifts and loans to political associates and State employees. I personally feel that gifts and loans should not have been made, except in special circumstances. Although no illegality was found, the tie of these large sums—even if small to Rockefeller—represented an unwarranted additional factor in the judgment and activities of State officials. I am pleased that Mr. Rockefeller has indicated that he will cease the practice of making large loans and gifts to associates in government.

Finally, I was surprised and disappointed at Mr. Rockefeller's involvement in the Lasky biography of Arthur Goldberg. I sincerely hope that this single aberration in an otherwise distinguished and fair career was just that.

Thus, I do not feel that the major issues raised during the confirmation process are of such a magnitude as to justify a vote against confirmation. Mr. Rockefeller is a man of considerable talent and I hope he will bring a new service of purpose and vision to the Ford administration at a time the country is desperate for leadership to solve economic and social problems that are bringing such hardship to so many.

Mr. McGEE. Mr. President, I rise in support of the nomination of Nelson Rockefeller, Jr., to be Vice President of the United States.

In my estimation, the President could not have submitted a better nomination to fill the vacancy of Vice President than Nelson Rockefeller. Few individuals could bring the qualifications and credentials to this office than the nominee.

These are troubling times for our Nation—domestically, economically, internationally. Nelson Rockefeller's record of public experience demonstrates he has a breadth of experience in all these areas, and I believe he will be a credit to this high office.

For these reasons, I unequivocally support the nomination of Nelson Rockefeller, Jr., to be Vice President of the United States.

Mr. McINTYRE. Mr. President, under the 25th amendment to our Constitution, Congress has the important responsibility of confirming the President's nomination to fill a vacancy in the office of Vice President. We are thus required to play a role usually reserved for the American electorate. It is not a respon-

sibility to be taken lightly—and takes on even greater significance when neither the President nor the Vice President has been selected by the people as a whole.

Great deference, of course, must be paid to the President's choice of a working partner. He is entitled to a Vice President of compatible political philosophy. But Congress must also exercise its independent judgment.

It was in this spirit that I approached the decision on President Ford's choice of Nelson A. Rockefeller to be Vice President. I have given close attention to the hearings and report of the Senate Rules Committee and have listened to the arguments of both those who support Mr. Rockefeller and those who oppose.

I will vote to confirm Nelson A. Rockefeller as Vice President because first and foremost, I believe, he is qualified to step into the position of President. His 34 years of public service, including 16 years as Governor of New York, represent an exceptional record of dedication to the public good. His domestic service is complemented by a wide variety of experience in international relations.

Moreover, Mr. President, I confess to being favorably impressed by Governor Rockefeller's rejection of the indolence his personal circumstances could have indulged. His zeal, drive, and industry bespeak not the dilettante, but the involved citizen and the energetic leader. I am further impressed, Mr. President, by the assumption that Governor Rockefeller will bring not only his personal talents and experience to the job, but will also put to positive use the considerable resources of his professional aides and advisors and the information and evaluations of his bi-partisan Commission on Critical Choices for Americans.

That said, however, let me add that I do have some reservations about Governor Rockefeller's confirmation, reservations beyond our political differences.

I admit to some qualms about Governor Rockefeller's endless hunger for high public office, for instance. I would find such consuming ambition distressing in any nominee, but considering the honor, esteem, power, and privilege already won and exercised by Governor Rockefeller, I find it all the more puzzling and disturbing.

Though I believe the Rules Committee's extensive investigation cleared him of the suspicion of disqualifying improprieties in his unfortunate practice of making excessive gifts and loans to those in his service, it did little to resolve the qualm I have about his insatiable ambition.

Then, too, Mr. President, there have been some philosophical aberrations that distress me. Governor Rockefeller's unfortunate mishandling of the Attica prison uprising, for example, has never been explained to my satisfaction.

But the most troubling thought I have about this nomination concerns Governor Rockefeller's immense wealth and its potential for influencing decisions that may not be in the best interests of the people. The Rockefeller family's holdings in the Nation's biggest oil companies disturb me particularly, because the machinations of big oil always disturb me and in light of today's fuel and energy crisis they ought to disturb every American. If, as now seems certain, these machinations must be fully exposed and brought to an end, will Nelson Rockefeller use the influence of the Vice President's office to serve the interests of the people, or the interests of the industry from which his family drew its fortune?

Obviously, if I thought he would come down on the side of the latter, I would not vote for his confirmation.

But I will vote for his confirmation, and I will do so because I have found nothing in the nominee's background to indicate that he has ever maneuvered to enhance his or his family's financial holdings. On the contrary, his entire life seems to have been predicated on the theme of "giving" instead of "taking," and I mean that in the public service as well as the philanthropic sense.

Mr. President, no nominee for the second highest office in the land has ever been subjected to such intense scrutiny as this nominee. His holdings, his public and his personal life, his behavior in and out of office, his attitudes and philosophy have been laid as bare as full-scale congressional inquiry can lay them. I believe that the nominee was served as well by this inquiry as the American public, for the experience would sober—and humble—any man, regardless of how great his ambition or self-esteem. On balance, Mr. President, I find the nominee's qualifications and potential for positive contributions in the office far outweigh the reservations I have expressed.

Needless to say, if Governor Rockefeller is confirmed as Vice President, I will keep a close eye on those areas of concern—particularly on the ties between the Rockefeller family and the major oil companies—but as of now I trust his integrity and I will vote for his confirmation.

Mr. HART. Mr. President, I shall vote to confirm Nelson A. Rockefeller as Vice President of the United States.

I do so mindful of the extraordinary responsibility events have placed on Congress by requiring that the Senate and the House substitute their votes for those of the electorate to select the Nation's two highest officeholders. It is a tribute to the political stability and maturity of our people that even under such circumstances the transfer of authority takes place in orderly fashion.

Because, in effect, I am casting a vote for millions of people, the public has a right to know why I decided to support Governor Rockefeller's nomination.

The intent of the 25th amendment to the Constitution, under which we act today, is not to have Congress reverse the results of a national election, and to do so would undermine public confidence that permits the peaceful transfer of political authority in our Nation.

My responsibility is to judge a nominee on his or her honesty, experience, ability to assume the office of the President, and, only in the broadest terms, political philosophy. My concern with a nominee's political philosophy is to determine not that it agrees with mine, but only that it lies somewhere within the wide spectrum of political thought compatible with our political system.

As Governor of the Nation's second largest State, and as a former Federal official involved in a wide range of domestic and foreign affairs, Mr. Rockefeller has the experience to qualify him to be President.

While it is impossible to predict with any certainty how an individual will respond to the duties of the Presidency, I think Governor Rockefeller, in elected and appointed office, has shown he has the ability to handle the duties of the office.

And the fact that he was elected Governor of New York four times demonstrates that his approach to government, however different from mine, falls well within the spectrum of political thought acceptable to the American people.

My vote to confirm the nomination then is based on those concerns and is not an endorsement of any particular position or action he may have taken or advocated during his many years in public life.

For example, whatever might have been acceptable at the time, today the rules of fair campaigning now prohibit the publication of a campaign book about an opponent unless the source of the money behind the publication is clearly identified.

I would have preferred that Mr. Rockefeller had reviewed fully the facts before commenting on the reports about the campaign book dealing with one of his opponents for Governor. However, I do not believe that the publication of the book or his initial responses to questions about it should cause me to reject his nomination, though it is entirely possible that many voters may make that a legitimate issue if Governor Rockefeller runs for national office.

In the event Mr. Rockefeller is confirmed, as seems likely, there will be those who contend the Senate and House hearings were of little importance. I would disagree, if for no other reason than the concerns expressed about the joining of great wealth and great political power.

At the minimum, I believe these discussions sensitized Mr. Rockefeller to these very real concerns. At best, I hope the discussions will encourage those elected officials who voiced such concerns to act on them when questions of economic-political power come before the Congress.

So after reviewing the record, I have decided to support the nomination of Mr. Rockefeller for Vice President, fully aware that even as in choosing a nominee for my own political party, there are few strict criteria against which to measure the qualifications of a man who could be President.

Mr. BUCKLEY. Mr. President, I shall vote to confirm Nelson Rockefeller's nomination as Vice President not because I favored his nomination, I did not, not because I share the thrust of his political philosophy, I do not, not because I believe that the issue of permissive abortion is other than the most profoundly important moral issue now before the American public, I most emphatically

believe that it is, but because my reading of my responsibilities under the 25th amendment to the Constitution allows me no other choice. The 25th amendment does not entitle me to substitute my political judgment for that of the President in designating a candidate to fill a vacancy in the Vice Presidency. My exclusive responsibility is to determine whether or not the candidate chosen by the President is disqualified for the high office to which he has been nominated. While I disagree with Nelson Rockefeller on many fundamental issues, I cannot in good conscience claim to have found anything in the public record that would support a conclusion that he is not competent to assume the Vice Presidency. Moreover, I believe that to allow purely political considerations to enter the confirmation process would set a dangerous precedent—especially on the part of those who must daily face the fact that the Congress and the White House are dominated by different political parties.

Mr. DOMINICK. Mr. President, I am voting present on the confirmation of Nelson Rockefeller to become the 41st Vice President of the United States because Mr. Rockefeller contributed to my recent campaign. I feel that it would be improper, after benefiting from his generosity, to vote any other way.

Mr. McGOVERN. After very careful thought, I have decided to support the confirmation of Mr. Rockefeller as Vice President of the United States.

I fully respect the convictions of those who felt they could not vote for confirmation.

There are certain aspects of Mr. Rockefeller's background that disturb me, but the basic reason why this nomination was given special scrutiny is the great wealth of the Rockefeller family. Wealth, however, should not be a barrier to high office. In the United States, we have always held that a person born into a poor family should not be barred by poverty from rising to the highest office in the land. Under the same logic, a person born into a family of great wealth should not be barred from rising to high office.

I am therefore voting "yes" to President Ford's request that the Congress confirm Mr. Rockefeller as Vice President.

The country is faced with many critical problems, especially in the economic field. I trust that Governor Rockefeller will devote his best efforts to assisting in the solution of those problems.

Mr. BIDEN. Mr. President, let me get to the point right away. I will vote to confirm Nelson Rockefeller as Vice President of the United States. He is qualified. The Senate Rules Committee report conveys to me no persuasive argument—legal, political and pragmatic—that would cause me to oppose his confirmation.

Reinforcing my judgment is a meeting I and a few of my Senate colleagues held with him one afternoon last week, during which there was a forceful and candid exchange of views. I understand that one of these same colleagues have arrived at a different conclusion than I. I respect, but disagree with his judgment, just as he does mine.

As I have said, I endorse Mr. Rockefeller's nomination. Failing persuasive disabling arguments, I think it best we in the Congress delay no longer in providing the Nation with a Vice President, rather than, as is the situation under the law of succession under the Constitution, risk continued instability.

This is not to say, however, that, as in other matters of public policy, my decision was arrived at over breakfast, so to speak. There are two or more sides to most issues, including this one. I read the committee report, read mail on the subject from my constituents, and listened to my colleagues here in the Senate.

Let me say what arguments I did discount, however. Some sought to persuade me that Mr. Rockefeller is "liberal" and unrepresentative of his political party.

My reply is that even if he were, he was the nominee President Ford, a Republican, as is Mr. Rockefeller, submitted to us. Others sought to persuade me to oppose him on what I call a "single-issue" grounds—that he, may have, made a mistake in judgment in dealing with this or that event during his terms as Governor of New York State. I am not a "single-issue" man, myself, Mr. President—however meritorious the issue may be—and I judge a nomination "warts and all."

A third argument presented to me was that of the origins of the fortune. Well, I did not know John D. Rockefeller, although I have read books purporting to narrate his buccaneering spirit. Even if this were true to the *n*th degree, I do not believe in the theory of "visiting the sins of the father upon the son," or in this case, a grandson. Such a theory, I remind myself, is in the nature of a bill of attainder, forbidden specifically by the Constitution of the United States.

However, there are disquieting aspects of Mr. Rockefeller's nomination that did—and do—disturb me.

Mr. President, my first reservation is a tangible one. It deals with the published derogatory campaign biography of Nelson Rockefeller's gubernatorial opponent in 1970, the distinguished Arthur Goldberg. Nelson Rockefeller disclaimed, in his first-round of testimony before the Rules Committee, any advance knowledge that the book was to be financed by funds provided by a brother, Laurence. Later, before the same committee, Nelson Rockefeller acknowledged he did have advance knowledge about the book project. Nelson Rockefeller, as a minimum, was evasive in his testimony. He deserves rebuke.

My second reservation is concisely stated by the nomination report of the Rules Committee itself. On page 177, the report reads:

> But the question of Governor Rockefeller's confirmation presented the Committee with a new, awesome, and unprecedented dimension—the implications involved in the potential wedding of great wealth and business interests with great power—the totality of which has been unmatched not only in any national election before but equally under the single-use of the 25th Amendment mandate one year ago.

This reservation is reinforced by the nominee's propensity as Governor of New York to giving loans, later converted to gifts, of tens and even hundreds of thousands of dollars to individuals who worked for the State. The era of the Medici princes with their elaborate patronages has long passed, Mr. President, and deserves no place in representative government.

I do note that Nelson Rockefeller has acknowledged that such lavish giving lends itself to be "misinterpreted" and he promised, in words of the report, to "henceforth limit his gift-giving practices to personal occasions—such as birthdays, weddings, retirements, and so forth—or to assist in medical or serious familial emergencies." This is a promise that simply had to be made to quiet my apprehension.

I hope that the nominee regards his extended appearance before the Rules Committee and, most recently, the House Judiciary Committee, as a sobering experience that will make him continuously mindful of his responsibility to carry both wisely and well his huge wealth and its constellation of power when he becomes Vice President, as is probable. Certainly, I do not believe that fair minded Americans, among whom I shall include myself, characterize acquisition of great wealth, in private or corporate form, as an offense, for if we do we should change the system that allows such accumulation and not merely disqualify the nominee; although its use does often involve vigilance on the part of public authorities.

Should Nelson Rockefeller, as Vice President, violate his large public obligation I have confidence our representative Government is strong enough to deal with him, just as it would with the lesser affluent, such as Joe Biden of Delaware. If it is not, then Nelson Rockefeller being confirmed as Vice President will not be primarily to blame for our difficulties as a nation.

Mr. CANNON. Mr. President, I join in expressing thanks to all the fine members of the staff and certainly the members of the committee who worked so diligently. We had very fine committee participation throughout the hearings, all the investigative work, and throughout the writing of the report, up to the very end of the matter. We have an excellent staff, and they certainly deserve to be commended.

I join my colleague, Senator Cook, in saying that I hope we will not establish a requirement here that, because of wealth, a man cannot be qualified to assume the position provided by the 25th amendment to the Constitution. I hope that we will not establish that, because of great poverty, a man cannot achieve that position.

I say to my colleagues that what we should do here today is to follow the 25th amendment. If we do not like it, let us rewrite it. Perhaps there are many things that should be done differently, because I do not think we anticipated that we would have both a President and a Vice President, neither of whom had been voted on by the people of this country.

So I simply say, in closing, that we have the 25th amendment now. This committee has exercised its best judgment, after a thorough investigation, in saying that we believe that this nomination should be confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question is, Will the Senate advise and consent to the nomination of Nelson A. Rockefeller, of New York, to be Vice President of the United States?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. DOMINICK (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK) when his name was called voted, "present."

The result was announced—yeas 90, nays 7, as follows:

[No. 524 Ex.]

YEAS—90

Aiken	Fong	Montoya
Allen	Fulbright	Moss
Baker	Gravel	Muskie
Bartlett	Griffin	Nunn
Beall	Gurney	Packwood
Bennett	Hansen	Pastore
Bentsen	Hart	Pearson
Bible	Hartke	Pell
Biden	Haskell	Percy
Brock	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Buckley	Hollings	Ribicoff
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
	Hughes	Scott, Hugh
Byrd, Robert C.	Humphrey	Sparkman
Cannon	Inouye	Stafford
Case	Jackson	Stennis
Chiles	Javits	Stevens
Church	Johnston	Stevenson
Clark	Kennedy	Symington
Cook	Long	Taft
Cotton	Magnuson	Talmadge
Cranston	Mathias	Thurmond
Curtis	McClellan	Tower
Dole	McClure	Tunney
Domenici	McGee	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Ervin	Metcalf	
Fannin	Mondale	

NAYS—7

Abourezk	Helms	Scott, William L.
Bayh	Metzenbaum	
Goldwater	Nelson	

ANSWERED "PRESENT"—1

Dominick

NOT VOTING—2

Bellmon	Mansfield

So the nomination was confirmed.

Mr. CANNON. Mr. President, I ask unanimous consent that the President be notified.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate is not in order. The Senators cannot hear their names called. All conversation will cease. The clerk will not proceed to call the roll until the Senate is in order.

The clerk may proceed.

The second 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.

The Senate will be in order so that the majority whip may be heard. Let the conversation cease; let us have order.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. There is no business before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator——

The PRESIDING OFFICER. The Chair has been advised by the Parliamentarian that he was previously advised wrong by the Parliamentarian. The Helms amendment is before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. HARTKE) be recognized for not to exceed 2 minutes, after which I ask unanimous consent that the chairman of the Committee on Appropriations (Mr. MCCLELLAN) be recognized.

Mr. BROOKE. Mr. President, reserving the right to object, but I shall not object, may I make an inquiry of the Senator from West Virginia?

The PRESIDING OFFICER. The Senate is not in order. The Senators will take their seats, and we will not proceed until we have silence so that the Senators having the floor may be heard.

Mr. BROOKE. Mr. President, it is my understanding that the Helms amendment is the pending business. Is that correct?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. BROOKE. May I ask the majority whip if he has been able to propound a unanimous-consent request for a time limitation on the Helms amendment?

Mr. ROBERT C. BYRD. I have been unable to reach an accord on that matter. I have tried, but have been unable to reach agreement.

Mr. BROOKE. Is it the understanding of the majority whip that after the Senator from Indiana and the Senator from Arkansas have been recognized, we will go back on the Helms amendment?

Mr. ROBERT C. BYRD. That is correct.

Mr. BROOKE. Without a time limitation?

Mr. ROBERT C. BYRD. Without a time limitation. That will be the pending matter after the Senator from Indiana has been recognized and after the matter which the Senator from Arkansas (Mr. MCCLELLAN) will raise has hopefully been disposed of.

Mr. BROOKE. May I inquire as to how much time will be used by the Senator from Arkansas to dispose of his matter?

Mr. ROBERT C. BYRD. There is no time limitation in regard thereto.

Mr. BROOKE. So there is a possibility that we may not get back to the Helms amendment until later on this evening, or possibly tomorrow?

Mr. ROBERT C. BYRD. Oh, I would think we would get back to it this afternoon, if I may say so.

Mr. BROOKE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 minutes.

DISABILITY AND DEATH PENSION AND INDEMNITY COMPENSATION

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4040.

The PRESIDING OFFICER (Mr. COTTON) laid before the Senate the amendments of the House of Representatives to the bill (S. 4040) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes, as follows:

Page 5, line 14 after the word "concerned", insert: ", but whose death in such service was not in line of duty".

Page 9, line 13 after the word "sources", insert: "and the".

Page 9, line 21 strike out "twenty", and insert: "eighty".

Page 10, after line 3 insert:

SEC. 9. (a) Subsection (e) of section 103 of title 38, United States Code, is amended—

(1) by adding "(1)" immediately before "The"; and

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

"(2) The marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by either party or collusion.".

(b) Subsection (1) of section 3010 of title 38, United States Code, is amended to read as follows:

"(1) The effective date of an award of benefits to a widow based upon a termination of a remarriage by death or divorce, or of an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce, shall be the date of death or the date the judicial decree or divorce becomes final, if

an application therefor is received within one year from such termination.".

Page 10, line 4 strike out "SEC. 9.", and insert: "SEC. 10.".

Mr. HARTKE. Mr. President, this matter is not controversial. It has been cleared on both sides of the aisle. The ranking Republican member of the Veterans' Affairs Committee is in the Chamber.

This measure is known as the Veterans and Survivors Pension Adjustment Act of 1974. The Senate-passed bill was sent over to the House of Representatives and was passed by them with some minor amendments; there was not substantial disagreement to the bill which previously passed the Senate. Basically, it provides for a 12-percent increase in pension benefits for veterans, and a $400 increase in the income limitation. Senators may recall that after the social security increases, many people were denied their veterans benefits because of income limitations. I know that practically every Senator has heard from his constituents about this inequity, and this measure is designed to clarify that situation.

Therefore, Mr. President, I rise to urge the Senate to support S. 4040, as amended, the Veterans and Survivors Pension Adjustment Act of 1974. The bill before you has not been substantively altered by the House of Representatives from the version which passed the Senate unanimously on October 7. I believe that passage of this bill is absolutely necessary if we are to fulfill our commitment to those veterans in need of assistance in their old age.

My colleagues will recall that following hearings of the Subcommittee on Compensation and Pensions chaired so ably by the senior Senator from Georgia (Mr. TALMADGE) the full Committee on Veterans' Affairs, which I am privileged to chair, unanimously ordered my bill, S. 4040, reported to the Senate. On October 7 the full Senate unanimously approved S. 4040 and sent it to the House.

As passed by the Senate, S. 4040 would:

First, provide a cost-of-living increase in the maximum annual income limitations for eligible veterans and their survivors receiving pension by $400 and provide an average 12 percent cost-of-living increase in the rates of pension;

Second increase the maximum annual income limitations of "old law: pensioners by $400;

Third, increase the maximum annual income limitations by $400 for parents receiving dependency and indemnity compensation—DIC—and an average 12 percent cost-of-living increase in the rates for DIC;

Fourth, increase the allowances payable for those in receipt of pension in need of aid and attendance or who are deemed to be housebound by 12 percent;

Fifth, provide pension benefits for widows and children of certain veterans whose death occurred not in the line of duty but who had previous honorable service;

Sixth, authorize a study by the Veterans' Administration of the economic situation in terms of income and needs of veterans age 72 or older to be submitted to the Congress not later than 120 days after the beginning of the 94th Congress; and

Seventh, provided that the act become effective on January 1, 1975.

Following Senate action the Committee on Veterans' Affairs reported and the House of Representatives passed S. 4040 with only slight alterations. In addition to certain technical and conforming changes, two substantive amendments have been made. The first House amendment provides a 2-month extension of the period of the study of the needs and problems of older veterans and widows from 120 days to 180 days after the commencement of the 1st session of the 94th Congress.

The second amendment of the House provides that the marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes, if the marriage has been terminated by death or divorce. This extends to the veteran's child the same reinstatement eligibility when his or her marriage has been terminated by death or divorce as was provided for widows several years ago. The Senate Committee on Veterans' Affairs believes these amendments are equitable and would recommend that the full Senate adopt them.

I would like to again remind the Senate of the crucial need for this bill. Since January 1, 1974, when Public Law 93–177 became effective, the cost of living as measured by the Consumer Price Index has increased as of October by 10.6 percent. At the current rate of inflation it is inescapable that the figures will reflect that the cost of living has risen 12 percent by January 1. Since the last time the income limitations were increased the Consumer Price Index has increased over 24 percent.

Obviously, an allowable limit of $2,600 in annual income for a single veteran, and $3,800 for a couple, simply does not have the buying power that it did in 1971. Thus, the $400 increase provided in this bill and the 12-percent increase in rates is intended to protect veterans and their widows in some measure from the ravages of inflation.

In testimony before the Subcommittee on Compensation and Pension Administration officials informed the committee that if action was not taken on January 1, 1975, 102,020 veterans and survivors would be dropped from the rolls completely.

In addition, many more veterans remaining on the pension rolls would suffer pension reductions. The average loss of pension as estimated by the Veterans' Administration would be as follows:

Type of pensioner:	*Monthly loss*
Veteran alone	$11.58
Veteran with dependent	10.33
Widow alone	7.50
Widow with dependent	4.00

However, if S. 4040 is enacted, over 1.2 million veterans and survivors will receive increases in their pensions. The average increases in pension would be as follows:

Type of pensioner:	*Monthly gain*
Veteran alone	$10.79
Veteran with dependent	10.11
Widow alone	6.88
Widow with dependent	12.47

I also want to remind my colleagues that the Committee on Veterans' Affairs will continue its study of the pension system and will be examining various proposals to restructure the veterans pension system at the beginning of the 94th Congress. Protracted opposition to the veterans education bill and the inability of the Veterans' Administration to supply needed data combined to delay such consideration this year.

As you are aware, the administration has formally and informally been calling for an overhaul of the system since May of 1973. While there is no disagreement with the principle of eliminating unequal treatment for similar circumstanced pensioners and of increasing assistance for the neediest, the actual proposals ultimately submitted by the Veterans' Administration would have been unduly restrictive and unacceptable.

Accordingly, the committee staff at my direction has been developing possible alternative committee proposals for restructuring of the pension system. As I have mentioned previously, there have been severe difficulties in receiving information from the Veterans' Administration in the past. However, in November this was brought to the attention of the new Administrator. I ask unanimous consent that my letter to Mr. Roudebush be printed in the RECORD at this point.

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

NOVEMBER 11, 1974.

Mr. RICHARD L. ROUDEBUSH,
Administrator of Veterans' Affairs,
Veterans' Administration,
Washington, D.C.

DEAR MR. ROUDEBUSH: As you know the Committee staff, by my direction, has for some time been studying a proposal submitted by the Veterans Administration to restructure the entire framework of the Veterans Administration non-service connected pension program which was submitted to us on March 15, 1974.

Requested information concerning the operation of this proposal, as well as possible variations thereof have been the subject of six memoranda transmitted by the Committee staff to the Veterans Administration. Although significant delays were encountered, the information requested in five memoranda transmitted prior to this past August has in large part been furnished. The sixth memorandum transmitted on August 9th (requesting the information be supplied by August 21, 1974) remains unanswered. Unlike earlier requests which were generally concerned with comparison of alternative systems at a single contemporary point in time, that memorandum requested five-year projections as to the operation, effect and cost of the Veterans Administration proposal and three variations. Such information is necessary if the Committee is to make informed decisions and obviously would be required by the Legislative Reorganization Act of 1970, prior to any consideration by the Senate.

In reviewing the situation it has become apparent to me that there are serious problems concerning the analytical capacity of

the Veterans Administration to furnish reasonably accurate information of the type requested in the August 9th memorandum as well as to supply information to subsequent inquiries which may be reasonably anticipated.

In response to our inquiries a study by the Congressional Research Service concluded that chief problems of the Veterans Administration in responding to Committee inquiries concerning pension restructuring were:

"Inadequate analytical staff in the Veterans Administration devoted to VA pension reform effort (a potentially solvable problem).

Inadequate data (only partly amenable to solution).

Competing computer models, which are by themselves only partially capable of answering Committee concerns.

A tangled administrative structure which now seems incapable of resolving these problems and making timely responses to Committee inquiry."

Each of the foregoing presents serious problems which I believe should be brought to your personal attention. In particular, I want to emphasize my strong belief that a properly functioning computer model with adequate data is absolutely necessary if there is to be a serious consideration of pension restructuring in the near future by the Committee as has been advocated by the Administration.

A principal problem, as I understand it, is that the computer model used by the Veterans Administration fails to "age" pensioners. As a consequence the computer model is unable to properly estimate future accessions to any new pension system that may be adopted. Second, it is unable to properly estimate terminations due to death, or excess income for those "grandfathered" pensioners who would choose to remain under the current pension system. And third, it is unable to provide reasonably accurate estimates of the number of cases switching from the current pension system to any new system that might be enacted.

This inability to reasonably project the nature and extent of the future caseload, of course, means that it is impossible to estimate cost impact with any degree of accuracy. Also, failure to estimate the impact of the existence of other federal programs such as Supplemental Security Income will distort the actual net cost of any new veterans legislation to the federal government.

Other inadequate data which currently inhibits a more competent computer model includes the absence of an income and actuarial profile of those older veterans who might become eligible for Veterans Administration pensions in 5 or 10 years. On a narrower basis, it is our understanding that neither is there a complete profile of new beneficiaries who have recently come onto the pension roles, nor adequate information as to the welfare income of the present recipient population, all of which have an important bearing on accessions and terminations to future caseloads.

The Committee has previously brought to the attention of the Department of Veterans Benefits the problems of inadequate analytical staff and I assume that whatever deficiencies existed have been, or are about to be, corrected so that accurate information can be transmitted to the Committee with reasonable promptness.

Given the foregoing the Committee believes it imperative first, to the fullest extent possible, that the Veterans Administration pension computer model be immediately restructured to eliminate the deficiencies previously noted as well as any others of which the Committee may be presently unaware. Second, we believe it important that efforts be made to collect income and actuarial profile information about possible future pensioners which could be done by an analysis of existing pertinent data as well as by statistical sampling done directly by the Veterans Administration or by contract.

I know from your testimony at your confirmation hearing, that you are as personally concerned as I am that the extent and ramifications of any pension proposal be fully understood prior to its enactment into law. I would appreciate your prompt attention to these issues raised in this letter so that a restructured computer model will be available within a month.

Sincerely,

VANCE HARTKE,
Chairman.

Mr. HARTKE. In response, Mr. Roudebush has informed me that a new computer system, more precise, and capable of more complex analysis will be available for the committee's work as of January 1, 1975. The committee is pleased with the spirit of cooperation which has been evidenced by the Administrator on this matter and looks forward to developing a coherent, fair, and logical pension restructuring in the coming session.

Thus, while S. 4040 is an interim measure, it is a most important one. This measure will provide an additional $145.9 million in benefits to needy veterans and their survivors in this fiscal year.

I urge immediate approval of S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974, so that we may provide needed relief to our Nation's veterans and survivors as we proceed to more fundamental changes in the veterans pension system next year.

Mr. President, I ask unanimous consent that a section-by-section analysis of the amended bill together with representative tables showing current and new pension rates payable under this bill and detailed cost estimates be placed in the RECORD at this point.

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

SECTION-BY-SECTION ANALYSIS OF S. 4040, AS REPORTED

SECTION 1

This section provides that this Act may be cited as the "Veterans' and Survivors' Pension Adjustment Act of 1974".

SECTION 2

Clause 1 would increase the rates of pension and the annual income limitation for unmarried veterans under section 521(b). Currently, a veteran with no dependents receives a maximum monthly pension of $143 if his annual income is $300 or less, decreasing on a gradual scale to $28 with an annual income of $2,600. As amended, this section would provide a maximum monthly rate of $160 with an annual income of $300 or less, down to $5 for an annual income of $3,000.

Clause 2 would increase the rates of pension and the annual income limitation for a married veteran under section 521(c). Currently, the maximum monthly pension payable to a veteran with one dependent is $154, with two dependents, $159, and with three or more dependents, $164 based on an annual income of $500 or less. This decreases gradually to $39, $44, and $49, respectively, with an annual income of $3,800. As amended, this section would provide a veteran with one dependent, $172, with two dependents, $177, and with three dependents, $182 based on an income of $500 or less, ranging down to $14, $19, and $24, respectively, with an annual income of $4,200.

Clause 3 provides that the additional allowance payable to those veterans receiving pension who are in need of regular aid and attendance under section 521(d) will be increased from $110 per month to $123 per month.

Clause 4 provides that the additional allowance payable under section 521(e) for those veterans receiving pension who have a disability rated permanent and total, and which is rated 60 percent or more, or are permanently housebound but not eligible for an aid and attendance allowance will be increased for $44 per month to $49.

SECTION 3

Clause 1 would increase the rates of pension and the annual income limitation for a widow without a child under section 541(b). Currently, a widow without a dependent receives a maximum monthly pension of $96 if her annual income is $300 or less, decreasing on a graduated scale to $21 with an annual income of $2,600. As amended, this section would provide a maximum monthly rate of $108 with an annual income of $300, decreasing to $4 with an income of $3,000.

Clause 2 would increase the rates of pension and the annual income limitation for a widow with a dependent under section 541(c). Currently, a widow with one child receives a maximum monthly pension of $114 if her annual income is $700 or less, decreasing on a graduated basis to $44 with an annual income of $3,800. As amended, this section would provide a maximum monthly rate of $128 with an annual income of $700 or less, down to $49 with an annual income of $4,200.

Clause 3 would increase the allowance for each child in the case where there is a widow with more than one child under section 541(d). Currently, a widow receives $18 per month for each additional child. As amended, this section would provide $20 of each additional child per month.

Clause 4 adds a new subsection (f) to section 541 to amend the definition of a "veteran" for the purposes of that section and section 542 to provide that survivors of a veteran who served at least two years of honorable military service and who meets the other service requirements of section 521(g) but whose death in such service was not in line of duty would be eligible for pension.

SECTION 4

Clause 1 would provide increases in the rates of pension for children when there is no widow under section 542(a). Currently, one child alone receives $44 per month, with the addition of $18 for each additional child. As amended, this section would provide $49 for the first child and $20 for each additional child.

Clause 2 would provide increases in the annual income limitation for a child under section 542(c). Currently, the annual income limitation is $2,000. As amended, this section would provide an annual income limitation of $2,400.

SECTION 5

This section would provide an increase in the allowance payable to widows who are in receipt of pension and in need of aid and attendance in section 544. Currently, the allowance is $55 per month. As amended, this section would provide an aid and attendance allowance of $64 per month.

SECTION 6

This section would amend section 4 of Public Law 90–275 (82 Stat. 68) to increase by $400 the maximum annual income limitations applicable under the prior pension in effect on June 30, 1960: From $2,200 to $2,600 for a veteran without a dependent, or widow without a dependent, or a child alone; and from $3,500 to $3,900 for a veteran with a dependent, or for a widow with a dependent.

SECTION 7

Clause 1 would increase the rates of dependency and indemnity compensation (DIC) and annual income limitations for a sole surviving parent under section 415(b). Currently, a sole surviving parent receives a

maximum monthly DIC payment of $110 if his income is less than $800 per annum, decreasing to $12 for an annual income of $2,600. As amended, this section would provide for a maximum monthly rate of $123 with an annual income of $800 or less, down to $4 for an annual income of $3,000.

Clause 2 would increase the rates of dependency and indemnity compensation (DIC) and the annual income limitations for two parents not living together under section 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $77 if annual income is $800 or less, decreasing on a graduated scale to $11 with an annual income of $2,600. As amended, this section would provide a maximum monthly rate of $86 with a annual income of $800 or less, down to $4 for an annual income of $3,000.

Clause 3 would increase the rates of dependency and indemnity compensation (DIC) and annual income limitations payable under section 415(d). Currently, if there are two parents who are living together, or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $74 if annual income is $1,000 or less, decreasing on a graduated scale to $11 with an annual income of $3,800. As amended, this section would provide a maximum monthly rate of $83 with an annual income of $1,000 or less, down to $4 for an annual income of $4,200.

Clause 4 would increase the allowance payable under section 415(h) to parents who are in receipt of dependency and indemnity compensation (DIC) and in need of aid and attendance. Currently, the allowance is $55 per month. As amended, this section would provide an aid and attendance allowance of $64 per month.

SECTION 8

Subsection (a) authorizes the Administrator of Veterans' Affairs to conduct a study of the needs and problems of veterans and their widows who are age 72 or older. Included in the study will be (1) a survey of the current income characteristics of such veterans; (2) an evaluation of the adequacy of the veterans pension program for their needs; and (3) an examination of the mortality rate for these individuals.

Subsection (b) provides that the study along with legislative or administrative recommendations shall be submitted to the Congress not later than 180 days after the convening of the 1st session of the 94th Congress.

SECTION 9

Subsection (a) provides that the marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans Administration determines that the divorce was secured through fraud by either party or collusion. This extends to a veteran's child the same reinstatement eligibility where his or her marriage has been terminated by death or divorce as was provided for widows several years ago.

Subsection (b) is a technical amendment with respect to the effective date of cases coming within the purview of subsection (a).

SECTION 10

This section provides that the effective date of this Act shall be January 1, 1975.

TABLE 1.—NON-SERVICE-CONNECTED PENSIONERS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI [1]	Total caseload	Percent with OASI	Average OASI
Less than 65	251,600	417,800	60.2	$2,186
65 to 69	93,200	99,500	93.7	1,873
70 to 74	68,400	74,600	91.7	1,845
75 to 79	231,700	260,700	88.9	1,951
80 and over	139,100	170,600	81.5	1,829
Tota. veterans	784,000	1,023,200	76.5	1,985
Survivors	694,900	920,600	75.5	1,681

[1] Source: 1 percent sample of AIQ's; March 1974.

Note: No age breakout is available for survivors.

TABLE 2.—PENSIONERS UNDER CURRENT LAW BY INCOME OTHER THAN PENSIONS

Income range	Veteran alone		Veteran with dependents		Widow alone		Widow with children	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Less than $100	80,000	25.1	67,800	12.1	102,400	14.8	10,000	7.0
$101 to $500	6,200	1.9	6,700	1.2	19,700	2.8	4,600	3.2
$501 to $1,000	19,500	6.1	17,400	3.1	41,400	6.0	56,200	11.3
$1,001 to $1,500	59,300	18.6	54,500	9.8	140,800	20.4	24,100	16.8
$1,501 to $2,000	57,900	18.1	92,400	16.6	149,400	21.6	31,300	21.8
$2,001 to $2,500	58,600	18.4	114,700	20.6	150,200	21.7	23,300	16.2
$2,501 to $3,000	36,800	11.5	117,400	21.0	86,200	12.5	12,600	8.8
$3,001 to $3,500	600	.2	53,300	9.6	1,500	.2	11,300	7.9
$3,501 to $4,000	300	.1	33,900	6.1	100	.0	10,300	7.2
Total	319,200	100.0	558,100	100.0	691,700	100.0	143,700	100.0

The following table shows the distribution of all active compensation, dependency and indemnity compensation, pension and retirement cases for all wars and regular establishment as of June 1974:

TABLE 3.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF JUNE 1974

Entitlement	Disability total cases	Death total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3,241,263	1,627,482	2,294,552	1,154,021	954,823	185,708
Service connected	2,210,756	371,202	506,073	203,175	117,190	185,708
Compensation	2,210,756	99,279	112,869	239	54	112,576
Dependency and indemnity compensation		266,549	381,767	197,895	116,812	66,970
Dependency and indemnity compensation and compensation		5,374	11,437	4,951	324	6,162
Nonservice-connected	1,030,046	1,256,245	1,788,443	950,827	837,616	
Public Law 86-211	902,082	1,149,700	1,680,315	845,633	834,682	
Prior law	127,964	106,545	108,128	105,194	2,934	
Special acts	51	35	36	19	17	
Retired emergency officers	408					
Retired reserve officers	2					
World War II	1,866,388	726,870	1,115,106	400,017	592,222	122,867
Service connected	1,329,774	196,462	232,845	91,224	18,754	122,867
Compensation	1,329,774	79,426	89,228	120	17	89,092
Dependency and indemnity compensation		113,020	135,205	87,322	18,623	29,260
Dependency and indemnity compensation and compensation		4,016	8,412	3,782	114	4,516
Nonservice connected	536,614	530,408	822,261	308,793	573,468	
Public Law 86-211	526,127	527,044	878,484	305,463	573,021	
Prior law	10,487	3,364	3,777	3,330	447	
World War I	499,741	628,528	646,406	616,129	29,771	506
Service connected	59,148	35,802	36,464	34,820	1,138	506
Compensation	59,148	464	472	64	2	406
Dependency and indemnity compensation		35,228	36,972	34,746	1,136	90
Dependency and indemnity compensation and compensation		10	20	10		10
Nonservice connected	440,184	592,726	609,942	581,309	28,633	
Public Law 86-211	324,777	512,063	528,395	500,720	27,675	
Prior law	115,407	80,663	81,547	80,589	958	
Special acts	1					
Retired emergency officers	408					
Korean conflict	285,993	130,204	290,098	45,125	219,332	25,641
Service connected	240,406	39,246	52,999	17,541	9,817	25,641
Compensation	240,406	15,654	18,802	24	17	18,761
Dependency and indemnity compensation		22,609	32,075	16,640	9,756	5,679
Dependency and indemnity compensation and compensation		893	2,122	877	44	1,201
Nonservice connected	45,587	90,958	237,099	27,584	209,515	
Public Law 86-211	44,483	90,872	236,966	27,503	209,463	
Prior law	1,104	86	133	81	2	

TABLE 3.—ACIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF JUNE 1974—Continued

Entitlement	Disability total cases	Death total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Vietnam era	394,736	64,099	139,779	33,875	84,592	21,312
Service-connected	388,851	50,616	109,674	28,159	60,203	21,312
Compensation	388,851	20	30	8	9	13
Dependency and indemnity compensation		50,565	109,552	28,134	60,148	21,270
Dependency and indemnity compensation and compensation		27	92	17	46	29
Non-service-connected	5,885	13,483	30,105	5,716	24,389	
Public Law 86-211	5,885	13,483	30,105	5,716	24,389	
Regular establishment	192,607	48,797	73,807	31,177	27,248	15,382
Service-connected	192,555	48,784	73,794	31,164	27,248	15,382
Compensation	192,555	3,715	4,337	23	9	4,305
Dependency and indemnity compensation		44,731	68,666	30,876	27,119	10,671
Dependency and indemnity compensation and compensation		338	791	265	120	406
Special acts	50	13	13	13		
Retired reserve officers	2					
Spanish-American War	1,379	27,922	28,273	26,877	1,396	
Service-connected	9	278	283	261	22	
Compensation	9					
Dependency and indemnity compensation		278	283	261	22	
Non-service-connected	1,363	27,633	27,979	26,611	1,368	
Public Law 86-211	397	5,739	5,856	5,737	119	
Prior law	966	21,894	22,123	20,874	1,249	
Special acts		11	11	5	6	
Mexican Border Service	426	501	511	496	15	
Service-connected	13	2	2	2		
Compensation	13					
Dependency and indemnity compensation		2	2	2		
Dependency and indemnity compensation and compensation						
Non-service-connected	413	499	509	494	15	
Public Law 86-211	413	499	509	494	15	
Indian Wars		99	101	83	18	
Service-connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected		97	99	82	17	
Prior law		97	99	82	17	
Special acts		1	1	1		
Civil War		462	471	242	229	
Service-connected		11	11	4	7	
Dependency and indemnity compensation		11	11	4	7	
Non-service-connected		441	449	238	211	
Prior law		441	449	238	211	
Special acts		10	11		11	

TABLE 4.—VETERAN ALONE

Income not over—	Current rate	S. 4004 rate
$300	$143	$160
$400	140	157
$500	137	154
$600	134	150
$700	131	146
$800	128	142
$900	124	138
$1,000	120	133
$1,100	116	128
$1,200	112	123
$1,300	108	118
$1,400	103	113
$1,500	98	108
$1,600	93	102
$1,700	87	95
$1,800	81	90
$1,900	75	84
$2,000	69	77
$2,100	63	70
$2,200	57	63
$2,300	50	56
$2,400	43	48
$2,500	36	40
$2,600	28	32
$2,700		24
$2,800		16
$2,900		8
$3,000		5

TABLE 5.—VETERAN WITH DEPENDENT

Income not over—	Current rate	S. 4040 rate
$300	$154	$172
$400	154	172
$500	154	172
$600	152	170
$700	150	168
$800	148	165
$900	145	162
$1,000	142	159
$1,100	139	156
$1,200	136	153
$1,300	133	150
$1,400	130	147
$1,500	127	144
$1,600	124	141
$1,700	121	138
$1,800	118	135
$1,900	115	131
$2,000	112	127
$2,100	109	123
$2,200	106	119
$2,300	$103	$115
$2,400	100	111
$2,500	97	107
$2,600	94	103
$2,700	90	99
$2,800	86	95
$2,900	82	91
$3,000	78	87
$3,100	74	82
$3,200	70	77
$3,300	65	72
$3,400	60	67
$3,500	55	62
$3,600	50	56
$3,700	45	50
$3,800	39	44
$3,900		37
$4,000		30
$4,100		22
$4,200		14

TABLE 6.—WIDOW ALONE

Income not over—	Current rate	S. 4040 rate
$300	$96	$108
$400	95	107
$500	94	106
$600	93	105
$700	90	102
$800	87	99
$900	84	96
$1,000	81	92
$1,100	78	88
$1,200	75	84
$1,300	72	80
$1,400	69	76
$1,500	65	72
$1,600	61	68
$1,700	57	64
$1,800	53	60
$1,900	49	56
$2,000	45	52
$2,100	41	48
$2,200	37	43
$2,300	33	38
$2,400	29	33
$2,500	25	28
$2,600	21	23
$2,700		18
$2,800		13
$2,900		8
$3,000		5

TABLE 7.—WIDOW WITH 1 DEPENDENT—Continued

Income not over—	Current rate	S. 4040 rate
$300	$114	$128
$400	114	128
$500	114	128
$600	114	128
$700	114	128
$800	113	127
$900	112	126
$1,000	111	125
$1,100	110	125
$1,200	108	122
$1,300	106	120
$1,400	104	118
$1,500	102	116
$1,600	100	114
$1,700	98	112
$1,800	96	110
$1,900	94	108
$2,000	92	106
$2,100	90	104
$2,200	88	101
$2,300	86	98
$2,400	84	95
$2,500	82	92
$2,600	79	89
$2,700	76	86
$2,800	73	83
$2,900	70	80
$3,000	67	77
$3,100	64	73
$3,200	61	69
$3,300	58	65
$3,400	55	61
$3,500	51	57
$3,600	47	53
$3,700	44	49
$3,800	44	49
$3,900		49
$4,000		49
$4,100		49
$4,200		49

TABLE 8.—1 PARENT

Income not over—	Current rate	S. 4040 rate
$800	$110	$123
$900	107	120
$1,000	104	117
$1,100	101	113
$1,200	97	109
$1,300	93	105
$1,400	89	100

TABLE 8.—1 PARENT—Continued

Income not over—	Current rate	S. 4040 rate
$1,500	$85	$95
$1,600	80	90
$1,700	75	84
$1,800	69	78
$1,900	63	71
$2,000	57	64
$2,100	50	56
$2,200	43	48
$2,300	36	40
$2,400	28	32
$2,500	20	24
$2,600	12	16
$2,700		8
$2,800		4
$2,900		4
$3,000		4

TABLE 9.—2 PARENTS NOT TOGETHER

Income not over—	Current rate	S. 4040 rate
$800	$77	$86
$900	75	84
$1,000	73	82
$1,100	71	80
$1,200	68	76
$1,300	65	72
$1,400	62	68
$1,500	58	64
$1,600	54	60
$1,700	50	56
$1,800	46	52
$1,900	42	48
$2,000	38	44
$2,100	34	40
$2,200	30	35
$2,300	26	30
$2,400	21	25
$2,500	16	20
$2,600	11	14
$2,700		8
$2,800		4
$2,900		4
$3,000		4

TABLE 10.—2 PARENTS TOGETHER

Income not over—	Current rate	S. 4040 rate
$800	$74	$83
$900	74	83
$1,000	74	83
$1,100	73	82
$1,200	72	80
$1,300	70	78
$1,400	68	76
$1,500	66	74
$1,600	64	72
$1,700	62	70
$1,800	60	68
$1,900	58	66
$2,000	56	64
$2,100	54	62
$2,200	52	60
$2,300	50	58
$2,400	48	56
$2,500	46	54
$2,600	44	51
$2,700	42	48
$2,800	40	45
$2,900	38	42
$3,000	35	39
$3,100	32	36
$3,200	29	33
$3,300	26	30
$3,400	23	27
$3,500	20	24
$3,600	17	20
$3,700	14	16
$3,800	11	12
$3,900		8
$4,000		4
$4,100		4
$4,200		4

TABLE 11.—*5-year cost of S. 4040, as reported*

Year:	Cost (millions)
I Current law, 12-percent increase $400 income limit increase:	
1974	$123.2
1975	249.0
1976	254.3
1977	251.8
1978	259.4
II Old law, $400 income limit increase:	
1974	9.5
1975	15.8
1976	$12.9
1977	9.8
1978	6.8
III DIC parents, 12-percent increase $400 income limit increase:	
1974	3.9
1975	8.0
1976	8.1
1977	8.1
1978	8.3
IV Increase in children's rates:	
1974	1.0
1975	1.9
1976	1.9
1977	1.8
1978	1.8
V Increase in AID and attendance/housebound rates:	
1974	8.3
1975	17.0
1976	17.5
1977	17.9
1978	18.2
VI Total cost:	
1974	145.9
1975	291.7
1976	292.2
1977	291.9
1978	294.5

Note: January 1, 1974, effective dates assumed for all provisions.

Mr. HANSEN. Mr. President, I rise in support of S. 4040, the Veterans' and Survivors' Pension Adjustment Act.

Unfortunately, this bill is not as "glamorous" as the GI education bill which we passed last week. It will not receive as much publicity, but in terms of human need, it is much more important for the continued well-being of our older veterans.

These are the people who are hurt most by the burden of inflation. Most of them must live on a fixed income, particularly those who receive pensions, and this action to finalize the Veterans' and Survivors' Pension Adjustment Act is needed.

Mr. President, this bill provides an average cost-of-living increase of 12 percent and a $400 increase in the annual income limitations in an effort to alleviate the burdens caused by inflation. It will be of very real help.

Next session, the Senate Veterans' Affairs Committee will continue to work on the question of veterans' pensions. I am hopeful that we will be able to come up with a more definitive solution to the problem.

Mr. President, I urge my colleagues to support this measure. It will serve the best interests of us all.

Mr. THURMOND. Mr. President, I strongly endorse S. 4040.

This bill passed the Senate unanimously in October 7, and was referred to the House committee on October 8. Yesterday, it passed the House with two minor changes.

First, the time limitation on the study of needs of older veterans has been extended by 2 months. Second, an amendment has been added to provide that the marriage of the child of a veteran previously in receipt of benefits shall not automatically prevent the child from receiving a pension if the marriage is terminated by death or divorce.

More importantly, however, this bill contains two provisions which will help our older veterans in the fight against inflation. First, the bill provides an average cost of living increase of 12 percent, and second, an increase in the income limitations of $400.

Mr. President, both of these provisions are necessary if our older veterans are to keep up with inflation. Otherwise, the spending power of the pension dollar will be reduced by about 12 percent. Recent increases in social security are calculated as countable income for determining eligibility for a pension. Many veterans and their widows will be removed from the pension rolls because of recent increases in social security if the income limitations are not increased.

Mr. President, it is imperative that we act today so this measure will be effective on January 1, 1975. Otherwise, recent social security increases will force many of our veterans off the pension rolls.

Mr. President, I urge my colleagues to support S. 4040.

Mr. McCLURE. Mr. President, I rise in support of S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974. This bill, of which I am a cosponsor, will basically provide 12 percent cost-of-living increases in non-service-connected pension rates. It will also increase income limitations by $400.

Our actions will protect more than 75,000 pensioners from being dropped from the rolls on January 1, due to the social security increases received this last year. We will also provide some 1.2 million veterans and their widows with increases in their pensions. Inflation has raised nearly 12 percent since the last cost-of-living increase pensioners received under Public Law 93–177, January 1, 1974. Thus the importance of passing this measure without further delay cannot be overemphasized.

We originally passed S. 4040 on October 7. Yesterday our colleagues in the other body likewise voted favorably on S. 4040 with two amendments. First, the Veterans' Administration would be allowed 180 days rather than 120 in which to complete a study on the needs of older veterans. And second, it would provide that the marriage of the child of a veteran previously receiving pension benefits would not automatically prevent the child from receiving pension if the marriage is terminated by death or divorce.

For the well-being and sheer need of our older veterans and their widows, I urge you to vote favorably for S. 4040.

Mr. HARTKE. I thank the members of the committee once again. Mr. President, this bill was a unanimous decision of the committee, which still has the record for unanimity over any other committee in the Senate.

I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

H.R. 17505—TO RESCIND CERTAIN BUDGET AUTHORITY

Mr. McCLELLAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17505.

The PRESIDING OFFICER (Mr. COTTON) laid before the Senate a message from the House of Representatives on

H.R. 17505, to rescind certain budget authority recommended in the messages of the President of September 20, 1974 (H. Doc. 93-361), October 4, 1974 (H. Doc. 93-365) and November 13, 1974 (H. Doc. 93-387), transmitted pursuant to section 1012 of the Impoundment Control Act of 1974, which was read twice by its title.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Has the bill now been read twice?

The PRESIDING OFFICER. The bill has been read twice.

Mr. McCLELLAN. Then I ask unanimous consent for the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. McCLELLAN. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is the bill now open to debate and amendment?

The PRESIDING OFFICER. The bill is now before the Senate, and is open to amendment.

Mr. HRUSKA. Mr. President, H.R. 17505 is the first rescission bill of its kind. It contains a number of items proposed for rescission by the President in special messages transmitted to Congress on September 23 and October 7, 1974. As amended and passed by the House, the bill recommends that approximately $117 million in budget authority be rescinded. This is $540 million less than the amount proposed for rescission. I agree with the action taken by the House and recommended by the Appropriations Committee, and I urge my fellow Senators to vote for the bill.

Mr. President, of particular interest to many in the agricultural community in this initial rescission measure is the proposed rescission of funds by the Administration for two important agriculture programs. The Rural Electrification Administration loan program and the agricultural conservation program, REAP, have been selected by the President for budget reductions.

The House rejected the rescission of funds in these two vital programs. I concur with that decision and urge that the Senate do likewise, thus leaving them to go forward.

During the regular appropriations hearings and action on these programs in the 1974 Appropriation Act the need for continued funding was noted by both the House and Senate committees. The House and Senate Appropriations Committees approved an authorization of $700 million for the Rural Electrification Administration loan program. Of the total amount authorized, not less than $80 million shall be made available for 2-percent loans. In addition to these insured loans, the REA is authorized to guarantee non-Federal loans at interest rates to be agreed upon between the borrower and lender. Public Law 93-32 gives Congress the authority and responsibility for establishing ceilings under the guaranteed loan program.

The President's rescission message recommended a reduction of over $455 million in the REA loan authorization. Testimony before the House Agriculture Appropriations Subcommittee indicated that there is at least $800 million in unapproved loans, and because of construction slowdowns, the approval of loans has been delayed. These loans are essential to rural development and any further delays in the loan program would be injurious to the rural economy.

As the House Appropriations Committee report on the rescission message pointed out, these funds are loan authorizations and not expenditures until approvable loans are submitted. Clearly, rural America should have the assurance that these funds will be available if needed. Therefore, I agree with the House recommendation to disapprove rescission of these funds.

For the agricultural conservation program, REAP, the House and Senate Appropriations Committees both recommended a funding level of $160 million for the 1974 fiscal year, the unobligated portion of which, namely $85 million, the President seeks to rescind. This program has been in existence since 1936 and has proven its worth to rural America despite efforts by the Department of Agriculture over the years to terminate it. These funds support the committee system in designating agricultural conservation practices within the many States. It is an important program to agriculture and to those who believe in sound conservation practices in connection with the production of food in this country. Mr. President, I support the House bill's denial of a rescission of funds for the REAP program.

It should be noted that Congress and the executive branch have long been at odds on the subject of appropriations for the agricultural conservation program, REAP, and its predecessor programs.

This has been true through the administrations of two Democratic Presidents and two Republican Presidents. The budget requests of these Presidents have not included any amount to fund such programs for many years.

On each such occasion, the Congress has appropriated sums for them notwithstanding lack of a Presidential budget request.

Congress in the past has provided funds for the programs in spite of lack of Presidential budget requests.

In the current situation as provided in the pending bill, the Congress provides the funds notwithstanding the President's proposed rescission.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the third reading of the bill.

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

SUPPLEMENTAL APPROPRIATIONS, 1975—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (HR. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. BROOKE. Mr. President, I would like to ask the chairman of the HUD Appropriations Subcommittee, Mr. PROXMIRE, about a sentence that appears in the joint explanatory statement of the committee on conference as part of the explanation of amendment No. 3. It reads as follows:

> The Committee agrees that the Section 235 and 236 programs should be used to provide alternate programs to Section 8 should the latter program not meet adequately the housing needs of lower income families.

As a member of the Committee on Banking, Housing and Urban Affairs as well as the Appropriations Committee, I am aware that there is a clear need to maintain an appropriate line of jurisdiction between the two committees.

Frankly, I am concerned that the sentence to which I referred may be interpreted to go beyond the jurisdiction of the Appropriations Committee and to write substantive housing legislation as a part of the joint explanatory statement of the Committee on Appropriations.

The Housing and Community Development Act of 1974 authorized the section 235, 236, and section 8 housing programs. It did not, however, either in the statute or in the report suggest that continuation of the section 235 homeownership program would depend on the success of the section 8 leasing program. The act clearly reflects the congressional intent that the section 235 program be used along with the section 8 program to meet the housing needs of our Nation's low- and moderate-income families.

I am concerned that HUD may misunderstand the statement that appears in amendment No. 3, and fail to act in accordance with the congressional intent expressed in the 1974 act.

Mr. President, I wonder whether the chairman could clarify the meaning of the sentence I have cited?

Mr. PROXMIRE. May I say to my good friend, the Senator from Massachusetts, as a member of both the Bank, Housing and Urban Affairs Committee and the Appropriations Committee, I agree with the distinguished Senator from Massachusetts that the report language he has read is, unfortunately, ambiguous and could lead to an improper interpretation of the 1974 Housing Act.

It was clearly not the intent of that act to make the use of the section 235 program contingent on section 8 success. The homeownership program was established to assist home buyers. The section 8 program assists renters, not buyers.

It is clear to me that the report language cited by my colleague is not intended to make the homeownership program a standby program since this was not the intention of the 1974 act. Such a misinterpretation of the report language would, very clearly, signal a substantive legislation decision which properly belongs within the jurisdiction of the Committee on Banking, Housing and Urban Affairs. I would answer my colleague that I read the statement simply as recognizing that the section 8 program cannot alone meet the low-income

housing goals established in the Housing Act of 1968 and that, accordingly, the revised section 235 homeownership program and the section 236 rental program are additional tools to be used in meeting our housing goals.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from Wisconsin.

I would like to address one question to the distinguished chairman of the Committee on Appropriations, and I would like to ask him whether he concurs with the views expressed by the chairman of the HUD Appropriations Subcommittee.

Mr. McCLELLAN. My attention was otherwise engaged, and I did not know that the Senator was asking something specifically with reference to this bill.

What is the contention?

Mr. PROXMIRE. We are making legislative history here. We are trying to clarify the fact that the conference report of Banking, Housing and Urban Affairs Committee in both the House and Senate did not include the language which is referred to in the supplemental appropriation committee report.

Mr. McCLELLAN. Does not include it?

Mr. PROXMIRE. Does not include it, which is a fact, and we are trying to make that clear in this discussion on the floor.

Furthermore, the substance of this is that the funds which are appropriated for the section 235 and 236 programs are available and should be used regardless of whether the section 8 program is regarded as a success or not. They are both needed and we should proceed with both.

Mr. McCLELLAN. This provision of appropriations comes under the Senator's jurisdiction, the jurisdiction of his committee; am I correct?

Mr. PROXMIRE. That is correct.

Mr. McCLELLAN. I would be inclined to support the Senator's view. I know of no reason why I should not support the Senator's view on it which he has expressed.

Mr. BROOKE. I thank the Chair and I thank the distinguished chairman of the full committee and the chairman of the subcommittee because I think it is important that this legislative history be made, and that HUD understand the intent of Congress insofar as section 235 and section 236 are concerned.

Mr. PROXMIRE. May I say to the Senator from Massachusetts that I commend him for his alertness in bringing this to our attention and in taking this most useful action.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, with the understanding that there be no action on the bill at this time, just that it be made the pending measure before the Senate, I ask unanimous consent that S. 3267 be called up and made the pending business.

The PRESIDING OFFICER. The clerk will report.

Mr. McCLURE. I object.

Mr. ROBERT C. BYRD. Mr. President, I move the Senate proceed to the consideration of S. 3267.

Mr. GRIFFIN. 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. McCLURE. 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 to withdraw my motion.

The PRESIDING OFFICER. Without objection it is so ordered.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3267 now be made the pending business before the Senate with the understanding there be no rollcall votes on this measure today.

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

Mr. FANNIN. I thank the Senator.

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

The assistant legislative clerk read as follows:

A bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act, including the following table of contents, may be cited as the "Standby Energy Emergency Authorities Act".

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TITLE I—STANDBY ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a) The Congress hereby determines that—

(1) current energy shortages have the potential to create severe economic dislocations and hardships;

(2) such shortages and dislocations could jeopardize the normal flow of interstate and foreign commerce;

(3) disruptions in the availability of imported energy supplies, particularly petroleum products, pose a serious risk to national security, economic well-being, and the health and welfare of the American people;

(4) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, governmental responsibility for developing and enforcing energy emergency authorities lies not only with the Federal Government, but with the States and with the local governments;

(5) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during periods of energy shortages.

(b) The purposes of this Act are to grant specific temporary standby authority to impose end-use rationing and to reduce demand by regulating public and private consumption of energy, subject to congressional review and right of approval or disapproval, and to authorize certain other specific temporary emergency actions to be exercised, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

(c) Prior to exercising any of the authorities contained in—

Section 103, End-Use Rationing
Section 104, Energy Conservation Plans
Section 106, Materials Allocation
Section 107, Federal Actions to Increase Available Domestic Petroleum Supplies, and
Section 112, Antitrust Provisions

of this Act, the President must first make a finding that national or regional energy shortage conditions exist which constitute an energy emergency and which require the exercise of the standby energy emergency authorities provided for in this Act. The President's finding shall be transmitted to the Congress and shall be limited to the implementation of those authorities, plans or programs which he determines are necessary to balance the Nation's energy demands with available supplies.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or a territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or a refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States,

the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration established by H.R. 11793, Ninety-third Congress (popularly known as the Federal Energy Administration Act of 1974) if H.R. 11793 is enacted; except that until such Administrator takes office, such term means an officer of the United States designated by the President.

SEC. 103. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under paragraph (1) of this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of subsection (b) of this section and of the Standby Energy Emergency Authorities Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 120 of the Standby Energy Emergency Authorities Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(6) At such time as he finds that it is necessary to put a rule under paragraph (1) of this subsection into effect, the President shall transmit such rule to each House of Congress and such rule shall take effect in the same manner as an energy conservation plan prescribed under section 104 of the Standby Energy Emergency Authorities Act and shall be deemed an energy conservation plan for purposes of section 104(c), notwithstanding the provisions of section 104(a)(1)(B). Such a rule may be amended as provided in section 104(a)(4) of such Act."

SEC. 104. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, unless the Administrator determines such an amendment does not have significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b), except that such an amendment may take effect immediately or on a date stated in such an amendment if the Administrator determines that a delay of 15 calendar days of continuous session of the Congress after the date on which such an amendment is transmitted to the Congress would seriously impair the operation of the plan or be inconsistent with the purposes of this Act, but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session after the date of submission of such an amendment, passes a resolution stating in substance that such House does not favor such an amendment, such amendment shall cease to be effective on the date of passage of such resolution. Any amendment which the Administrator determines does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than 6 months after such plan first takes effect or June 30, 1975, whichever first occurs.

(b)(1) For purposes of this subsection, the term "energy conservation plan" includes an amendment to an energy conservation plan which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) Except as provided in subparagraph (B), if an energy conservation plan is transmitted to the Congress such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which said plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(ii) Any energy conservation plan described in subparagraph (A) may be implemented prior to the expiration of the 15-calendar-day period after the date on which such plan is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to the implementation of such plan.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(3) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B).

(A) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the implementation of energy conservation plan numbered ——— submitted to the Congress on ———, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank space being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not favor the energy conservation plan numbered ——— transmitted to Congress on ——— 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(B) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be

renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to such plan, or a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) Any energy conservation plan or rationing rule, which the Administrator submits to the Congress pursuant to subsection (b) of this section shall state any findings of fact on which the action is based, and shall contain a specific statement explaining the rationale for such plan or rule.

(2) To the greatest extent practicable, any energy conservation plan or rationing rule which the Administrator submits to the Congress pursuant to subsection (b) of this section shall also be accompanied by an evaluation prepared by the Administrator of the potential economic impacts, if any, of the proposed plan or rule. Such evaluation shall include an analysis of the effect, if any, of such plan or rule on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry;

(H) small business; and

(I) the supply and availability of energy resources for use as fuel or as feedstock for industry.

SEC. 105. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal or coal byproducts as provided in the Clean Air Act, as amended. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplant in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal or coal byproducts as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may, by rule, prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 106. MATERIALS ALLOCATION.

(a) Beginning 60 days after the date of enactment of this Act, the Administrator may, by rule or order, require the allocation of, or the performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment if he makes the findings required by subsection (c) of this section.

(b) Not later than 30 days after the date of enactment of this Act the Administrator shall report to the Congress with respect to the manner in which the authorities contained in subsection (a) will be administered. This report shall include but not be limited to the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(c) The authority granted in this section may not be used to control the general distribution of any supplies of materials and equipment in the marketplace unless the Administrator finds that—

(1) such supplies are scarce, critical, and essential to maintain or further exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities, and

(2) maintenance or furtherance of exploration, production, refining, and required transportation of energy supplies and the construction and maintenance of energy facilities during the agency shortage cannot reasonably be accomplished without exercising the authority specified in subsection (a) of this section.

SEC. 107. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may, by rule or order, until June 30, 1975, require the following measures to supplement domestic energy supplies:

(1) the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) if necessary to meet defense and national security needs, production of certain designated existing domestic oilfields on Federal lands at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currenty assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery; and

(3) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production from any naval petroleum reserve now subject to the provisions of chapter 641 of title 10, United States Code.

SEC. 108. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end of such section the following new subsection:

(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Standby Energy Emergency Authorties Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each

case the term appears and inserting in each case "June 30, 1975".

(c) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,".

(d) The Administrator shall, within 30 days from the date of the enactment of this Act, report to the Congress with respect to shortages of petrochemical feedstocks, of steps taken to alleviate any such shortages, the unemployment impact resulting from such shortages, and any legislative recommendations which he deems necessary to alleviate such shortages.

SEC. 109. PROTECTION OF FRANCHISED DEALERS

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(4) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than 90 days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects or conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew, damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy.

(d) The provisions of this section expire at midnight, June 30, 1975, but such expiration shall not affect any pending action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1975, except that no suit under this section, which is based upon an act committed prior to midnight, June 30, 1975, shall be maintained unless commenced within 3 years after such act.

SEC. 110. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, unless the Administrator determines such a policy would be inconsistent with the purposes of this Act and publishes his finding in the Federal Register, allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonable disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 111. REGULATED CARRIERS.

(a) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(b) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on June 30, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 112. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement re-

sulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards, and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other interested segments of the petroleum industry and of groups which include representatives of the public, of industrial, municipal, and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference, or communication held to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of sections 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (c)(3) and (e)(4), provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference, or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented, where it shall be made available for public inspection and copying.

(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation, and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation, or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on June 30, 1975.

(o) The exercise of authority provided in section 111 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 113. EXPORTS

(a) The Administrator is authorized by rule or order, to restrict exports of coal, natural gas, petroleum products, and petrochemical feedstocks, and of supplies of materials and equipment which he determines to be necessary to maintain or further exploration, production, refining, and required transportation of domestic energy supplies and for the construction and maintenance of energy facilities within the United States, under such terms and conditions as he determines to be appropriate and necessary to carry out the purpose of this Act.

(b) In the administration of the restrictions under subsection (a) of this section, the Administrator may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), impose such restrictions on exports of coal, natural gas, petroleum products, and petrochemical feedstocks, and of supplies of materials and equipment which the Administrator determines to be necessary to maintain or further exploration, production, refining, and required transportation of domestic energy and supplies and for the construction and maintenance of energy facilities within the United States, as the Administrator determines to be appropriate and necessary to carry out the purposes of this Act.

(c) Rules or orders of the Administrator under subsection (a) of this section and actions by the Secretary of Commerce pursuant to subsection (b) of this section shall take into account the historical trading relations of the United States with Canada and Mexico.

SEC. 114. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of Government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b)(1) The Secretary of Labor shall make grants, in accordance with regulations prescribed by him, to States to provide cash benefits to any individual who is unemployed as a result of disruptions, dislocations, or shortages of energy supplies and resources, and who is not eligible for unemployment

assistance or who has exhausted his rights to such assistance (within the meaning of paragraph (4)(B)).

(2) Regulations of the Secretary of Labor under paragraph (1) may require that States enter into agreements as a condition of receiving a grant under this subsection, and such regulations—

(A) shall provide that—

(i) a benefit under this subsection shall be available to any individual who is unemployed as a result of disruptions, dislocations, or shortages of energy supplies and resources and who is not eligible for unemployment assistance (without regard to whether such unemployment commenced before or after the date of enactment of this Act).

(ii) a benefit provided to such an individual shall be available to such individual for any week of unemployment which begins after the date on which this Act is enacted and before July 1, 1975, in which such individual is unemployed;

(iii) the amount of a benefit with respect to a week of unemployment shall be equal to—

(I) in the case of an individual who has exhausted his eligibility for unemployment assistance, the amount of the weekly unemployment compensation payment for which he has most recently eligible; or

(II) in the case of any other individual, an amount which shall be set by the State in which the individual was last employed at a level which shall take into account the benefit levels provided by State law for persons covered by the State's unemployment compensation program, but which shall not be less than the minimum weekly amount, nor more than the maximum weekly amount, under the unemployment compensation law of the State; and

(B) may provide that individuals eligible for a benefit under this subsection have been employed for up to 1 month in the 52-week period preceding the filing of a claim for benefits under this subsection.

(3) Unemployment resulting from disruptions, dislocations, or shortages of energy supplies and resources shall be defined in regulations of the Secretary of Labor. Such regulations shall provide that such unemployment includes unemployment clearly attributable to such disruptions, dislocations or shortages, fuel allocations, fuel pricing, consumer buying decisions influenced by such disruptions, dislocations, or shortages, and governmental action associated with such disruptions, or shortages. The determination as to whether an individual is unemployed as a result of such disruptions, dislocations, or shortages (within the meaning of such regulations) shall be made by the State in which the individual was last employed in accordance with such industry, business, or employer certification process or such other determination procedure (or combination thereof) as the Secretary of Labor shall, consistent with the purposes of paragraph (1) of this subsection, determine as most appropriate to minimize administrative costs, appeals, or other delay, in paying to individuals the cash allowances provided under this section.

(4) For purposes of this subsection—

(A) an individual shall be considered unemployed in any week if he is—

(i) not working,

(ii) able to work, and

(iii) available for work,

within the meaning of the State unemployment compensation law in effect in the State in which such individual was last employed, and provided that he would not be subject to disqualification under that law for such week, if he were eligible for benefits under such law;

(B)(1) the phrase "not eligible" for unemployment assistance means not eligible for compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada; and

(ii) the phrase "exhausted his rights to such assistance" means exhausted all rights to regular, additional, and extended compensation under all State unemployment compensation laws and chapter 85 of title 5, United States Code, and has no further rights to regular, additional, or extended compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 115. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whoes purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(3)(A) The President shall take action to insure the enforcement of 31 U.S.C. 638a.

(B) No funds shall be expended under authority of this or any other Act for the purpose of furnishing a chauffeur in a vehicle operated in violation of section 638a of title 31, United States Code, or this Act.

SEC. 116. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order under this title or under section 4(h) of the Emergency Petroleum Allocation Act of 1973; except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title) other than section 4(h) thereof, nor to any rule under section 111 of this title.

(2) Notice of all proposed substantive rules and orders of general applicability described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 10 days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where the President finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), unless the President determines that a rule or order described in paragraph (1) is not likely to have a substantial impact on the Nation's economy or upon a significant segment thereof, an opportunity for oral presentation of views, data, and argument shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such

rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b)(1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders isued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 120 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 or to any rule under section 111 of this title.

(4) The finding required by section 4(h)(2) of the Emergency Petroleum Allocation Act of 1973 shall not be judicially reviewable under this subsection or under any other provision of law.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title of the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within 30 days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

SEC. 117. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 111) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to any such provision.

SEC. 118. ENFORCEMENT.

(a) Whoever violates any provision of section 117 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 117 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 117, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 117.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 117 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 119. SMALL BUSINESS INFORMATION.

In order to achieve the purposes of this Act—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in this Act which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in this Act and in administering such programs; and

(3) in administering the programs provided for in this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

SEC. 120. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the agency which he heads as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations which the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to subsection (c) of this section.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

(c) Effective on the date on which the Administrator of the Federal Energy Administration (established by H.R. 11793, Ninety-third Congress) first takes office, all functions, powers, and duties of the President under the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such Act (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

SEC. 121. GRANTS TO STATES.

Any funds authorized to be appropriated under section 125(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 120 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 104(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 104 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 122. ENERGY INFORMATION REPORTS.

(a) For the purpose of assuring that the Administrator, the Congress, the States, and the public have access to and are able to obtain reliable energy information throughout the duration of this Act, the Administrator, in addition to and not in limitation of any other authority, is authorized to request, acquire, and collect such energy information as he determines to be necessary to assist in the formulation of energy policy or to carry out the purposes of this Act or the Emergency Petroleum Allocation Act of 1973.

(b) In carrying out the provisions of subsection (a) the Administrator shall have the power to—

(1) require, by rule, any person who is engaged in the production, processing, refining, transportation by pipeline or distribution (other than at the retail level) of energy resources to submit reports;

(2) sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents;

(3) require of any person, by general or special order, answers in writing to interrogatories, requests for report, or other information; and such answers or submissions shall be made within such reasonable period and under oath or otherwise as the Administrator may determine; and

(4) to administer oaths.

(c) For the purpose of verifying the accuracy of any energy information requested, acquired, or collected by the Administrator, officers or employees duly designated by him upon presenting appropriate credentials and a written notice to the owner, operator, or at reasonable times and in a reasonable manner, any facility or business premises, to inventory and sample any stock of energy resources therein, and to examine and copy records, reports, and documents relating to energy information.

(d)(1) The Administrator shall exercise the authorities granted to him under subsection (b) to develop within 30 days after the date of enactment of this Act, as full and accurate a measure as is reasonably practicable of—

(A) domestic reserves and production;

(B) imports; and

(C) inventories;

of petroleum products, natural gas, and coal.

(2) For each calendar quarter beginning with the first complete calendar quarter following the date of enactment of this Act, the Administrator shall develop and publish quarterly reports containing the following:

(A) Report of petroleum product, natural gas, and coal imports; relating to country of origin, arrival point, quantity received, geographic distribution within the United States.

(B) Report of crude oil activity; relating capacity of producers' allocations to refiners, and fuels to be made.

(C) Report of inventories, nationally, and by region and State—

(i) for various refined petroleum products, relating refiners, refineries, suppliers to refiners, share of market, and allocation fractions;

(ii) for various refined petroleum products, previous quarter deliveries and anticipated 3-month available supplies;

(iii) for refinery yields of the various refined petroleum products, percent of activity, and type of refinery;

(iv) with respect to the summary of anticipated monthly supply of refined petroleum products, amount of set aside for assignment by the State, anticipated State requirements, excess or shortfall of supply, and allocation fraction of base year; and

(v) with respect to liquefied petroleum gas by State and owner: quantities stored, and existing capacities, and previous priorities on types, inventories of suppliers, and changes in supplier inventories.

(3) In developing the energy information called for in this section, the Administrator may, if he determines that it would not be practicable to do otherwise, use the statistical method of "sampling".

(e) In order to avoid or minimize duplicative reporting, the Administrator may request and acquire energy information from any other department or agency of Federal Government, except that any such department or agency shall refuse to supply such information if its disclosure to the Administrator would otherwise be prohibited by law.

(f) Any person required to submit energy information to the Administrator under this section may at the time he submits such information request the Administrator to declare such information, in whole or in part, to be confidential and to not disclose such information except as permitted under subsection (d)(2). The Administrator shall, within 10 days after receipt of such request, initiate and (except where good cause is stated) complete within 30 days thereafter, an administrative proceeding affording an opportunity for hearing under sections 556 and 557 of title 5, United States Code, to determine whether such information concerns or relates to trade secrets or other matter referred to in section 1905 of title 18, United States Code, within the meaning of such section 1905.

(g)(1) Information determined by the Administrator to concern or relate to trade secrets or other matter referred to in section 1905 of title 18, United States Code, shall be kept confidential and not be disclosed except that disclosure may be made (A) to other officers or employees concerned with carrying out this Act and the Emergency Petroleum Allocation Act of 1973 concerned with the formulation of energy policy, (B) when relevant, in any proceeding under this Act or the Emergency Petroleum Allocation Act of 1973, or (C) to the committees of Congress upon request of the chairman of any such committee.

(2) Such information when disclosed in a proceeding under this Act or the Emergency Petroleum Allocation Act of 1973 shall be disclosed by the Administrator in a manner which preserves confidentiality to the extent practicable without impairing the proceeding and such information when submitted to the committees of Congress upon request shall not be disclosed except by authority of the committee.

(3) Paragraph (2) of this subsection shall govern disclosure of such information by committees of the Congress and is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such shall be considered as a part of the rules of each House, respectively, or of that House to which it specifically applies, and such rule shall supersede other rules only to the extent that they are inconsistent therewith, and

(B) with full recognition of the constitutional right of either House to change such rule (so far as it relates to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(h) As used in this section—

(1) the term "Federal agency" shall have the meaning of the term "executive agency" as defined in section 105 of title 5, United States Code;

(2) the term "energy information" includes all information in whatever form on mineral fuel reserves, exploration, extraction, and natural energy resources (to include petrochemical feedstocks) wherever located; production, distribution, and consumption wherever carried on; and includes matters such as corporate structure and proprietary relationships, costs, prices, capital investment and assets and other matters directly related thereto, wherever they exist; and

(3) the term "person" means any natural person, corporation, partnership, association, consortium, or any entity organized for a common business purpose; wherever situated, domiciled or doing business, who directly or through other persons subject to their control do business in any part of the United States, its territories and possessions, or the District of Columbia.

(i) Information obtained by the Administrator under authority of this Act shall be available to the public in accordance with the provisions of section 552 of title 5, United States Code.

SEC. 123. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of nonjurisdictional natural gas.

SEC. 124. EXPIRATION.

The authority under this title to prescribe any rule or order to take other action under this title, or to enforce any such rule or order, shall expire at midnight, June 30, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1975.

SEC. 125. AUTHORIZATIONS OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Administrator to carry out his functions under this Act and under other laws, and to make grants to States under section 121, $75,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 121, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 114, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 126. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 127. CONTINGENCY PLANS.

(a) In order to fully inform the Congress and the public with respect to the exercise of authorities under sections 103 and 104 of this Act, the Administration shall, to the maximum extent practical, develop contingency plans in the nature of descriptive analyses of:

(1) the manner of implementation and operation of any such authority;

(2) the anticipated benefits and impacts of the provision of any plan;

(3) the role of State and local government;

(4) the procedures for appeal and review; and

(5) the Federal officers or employees who will administer any plan.

scribe the exercise

(b) Any contingency plans which describe the exercise of any authority under section 103 or 104 of this Act shall be transmitted to the Congress not later than the date on which any plan or rule relating to such contingency plan is transmitted to the Congress pursuant to the provisions of such sections.

TITLE II—STUDIES AND REPORTS

SEC. 201. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 60 days after the date of enactment of this Act:

(A) The Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations contributed to or are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) The President shall undertake a comprehensive survey of all Federal departments and agencies to identify and recommend to the Congress specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) All independent regulatory commissions shall undertake a survey of all activities over which they have jurisdiction to identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(D) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(E) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(F) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act.

(B) The Administrator shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 202. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days beginning June 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. 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. McCLURE. Mr. President, I ask unanimous consent that Mr. Michael Hathaway, of my staff, be allowed privilege of the floor at all stages of the proceedings on this measure.

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

Mr. GRIFFIN. If the Senator will yield, I ask unanimous consent that Mr. David Clanton, of my staff, be allowed privilege of the floor during consideration of this measure.

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

Mr. McCLURE. 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 would not want to be misunderstood. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. President, I would not want to be misunderstood. I did not mean to imply there would be no more rollcall votes today.

What I said was that there would be no rollcall votes on the pending measure today, which is the energy bill.

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. COTTON. 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. COTTON. Mr. President, I ask unanimous consent that I may be allowed to proceed for 4 or 5 minutes on a matter not germane to the business before the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Senator from New Hampshire is recognized.

ADDRESS BY SENATOR McINTYRE AT TILTON SCHOOL IN NEW HAMPSHIRE

Mr. COTTON. Mr. President, on the first day of last June, my colleague (Mr. McINTYRE) delivered an able and thought-provoking commencement address at Tilton School in New Hampshire, of which I happen to be an alumnus. It was printed in this fall's alumni magazine which has just come to my attention.

It was quite unlike the typical commencement address to graduating classes, but was so powerful and analytical that it is, in my opinion, worthy of the attention of the Congress and the people.

Therefore, I ask unanimous consent that it be printed in the RECORD at this point.

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

ADDRESS OF U.S. SENATOR THOMAS J. McINTYRE OF LACONIA AT TILTON'S 128TH COMMENCEMENT, JUNE 1

Mr. chairman, members of the Tilton Academy administration and faculty, members of the Class of 1974 and their friends and families:

As I look out upon this class of graduates and see members of the gentler—but I hasten to add *equal*—sex among them, I must begin by offering my belated congratulations to Tilton Academy for its progress in *integration*.

I congratulate the academy for yielding gracefully before the inevitable.

If the handwriting wasn't on the wall before, it was indelibly engraved there on that historic evening last winter when Billie Jean King beat the daylights out of Bobby Riggs.

All that remains for me to say is this: I just hope Will Rogers wasn't right way back in 1925 when he said, "I'll bet you the time ain't far off when a woman won't know any more than a man."

I said I hoped he wasn't right because if *you* don't know any more than we *men* do, then we're *all* in trouble.

I'm afraid we men botched it up pretty badly when we ran the show by ourselves.

But I don't think we botched it up so badly that it can't be fixed . . . and that's what I'm here to talk about today.

It's easy to be pessimistic these days.

What's hard is to fight through the pessimism and see some hope.

The other night I was thinking about today's young men and women and it occurred to me that there may never have been a generation that had so many illusions shattered in so short a time.

Your generation has seen our beloved country shaken, divided and embittered by the most unpopular war in our history.

Your generation has seen our air become poisoned, our waters fouled, our landscapes scarred and defiled . . . the very balance of Nature upset.

Your generation has seen this richest of lands threatened by a shortage of wheat—our basic food . . . and oil—our basic source of energy.

Your generation has seen the highest per capita income in history wiped out by an inflation that no one seems to know how to control.

Your generation has seen an accelerated breakdown of the basic element in our society—the family.

Your generation has seen evidence of how big business can abuse its power and privileges and reap windfall profits from a national crisis. And at the same time your generation has seen equal evidence that government—no matter how big, no matter how many laws, no matter how much it spends—*can't* solve all of our problems.

And—perhaps most disillusioning of all—your generation has seen a vice president resign in disgrace, countless other top administration officials indicted, fired, or asked to resign . . . and the highest office in the land come under a cloud of suspicion condensed from the worst political scandal in our history.

Before this shameful chapter is closed, your generation may also see what would be only the second impeachment of a President in our 200-year history.

But even if this comes to pass, our nation will survive!

It will survive because it is tough and durable and resilient because it has been *seasoned* and tempered by other crises—crises that we survived just as we will survive this one.

Some of you look skeptical. Some of you may be thinking that's nothing more than usual commencement rhetoric.

I can understand that skepticism. It's as hard not to be skeptical these days as it is not to be pessimistic.

But let me play a little game with you to prove my point. I'm going to quote some remarks to you and ask you when and by whom they were made.

Quote: "This administration has proved that it is utterly incapable of cleaning out the corruption which has completely eroded it and reestablishing the confidence and faith of the people in the morality and honesty of their government employees.

"The investigations which have been conducted to date . . . have only scratched the surface. For every case which is exposed, there are ten which are successfully covered up and even then this administration will go down in history as the 'scandal a day' administration. . . .

"A new class of royalty has been created in the United States and its princes of privilege and pay-offs include the racketeers who get concessions on their income tax cases, the insiders who get favorable treatment on government contracts, the influence peddlers with keys to the White House, the government employee who uses his position to feather his own nest."

And this quote concludes:

"The great tragedy, however, is not that corruption exists but that it is defended and condoned by the President and other high administration officials. . . . If *they* won't recognize or admit that corruption exists, how can we expect *them* to clean it up?"

Now this sounds for all the world as if it were said by a *partisan Democrat* about *Watergate*, doesn't it?

And it sounds for all the world as if our country was about to go down the drain any minute, doesn't it?

Well, my friends, it wasn't said by a partisan Democrat. And it wasn't said about Watergate.

It was said by Richard M. Nixon on November 13, 1951 . . . and he was talking about the Truman Administration.

Now I quoted this not to prove that political history repeats itself—which it seems to do—or to illustrate that one's point of view is dependent upon whose ox is being gored at the time.

I quoted it to prove the point that our nation *didn't* go down the drain in 1951—despite Mr. Nixon's low opinion of Mr. Truman . . . and Mr. Truman's low standing in the public opinion polls.

Not only did the nation and the political system survive . . . but Mr. Truman is held in higher esteem today than he ever was when he was alive.

Now let me hasten to add that all this is not to minimize Watergate for one minute. There is no way to minimize Watergate or the damage it has done this nation.

But despite the terrible damage it has done, the Watergate scandal has not shaken the faith of those who exposed it. I speak of the free and independent American press.

And that should tell us something.

No one sees the seamier side of America with greater clarity than the press. No one is exposed to our system's weakness and failures more often than the press. No one is more keenly aware of the clay feet of all public idols.

So one might logically assume that the press' cynicism would be deeper—and its pessimism greater—than the rank and file citizen's.

But this is not the case.

In the past several months, America has lost five of its leading print and electronic journalists.

Chet Huntley, Frank McGee, Arthur Krock and Stewart Alsop have died. And William S. White has retired. As I read through the newspaper accounts of their passing from the scene, I was struck again and again by their profound and unshakable faith in America. To the man, they firmly believed that our traditions, our institutions, and our way of government would prevail over this crisis, as they have always prevailed before.

Time will not permit me to quote each of them, but the concluding paragraph in William S. White's final newspaper column summed up their collective convictions:

"I leave Washington," White wrote, "with absolute faith in the basic decency, strength and durability of all our institutions."

So these men believed that our nation will survive even these trying times because it is, indeed, durable, resilient, resourceful—and tempered by the experience of earlier crises.

I share their conviction. I'm more certain than ever, because I am convinced that you young people will *make* it survive. You will make it survive because you come to the task with no innocent illusions—and with your eyes wide open.

You have had your learning experience about America crammed into only a few of the 17 or 18 years of your life, and I can't help but believe that the very urgency of that experience bodes well for the Nation.

Now what are some of the lessons that you—and all Americans—should have learned in the last few years?

What should we have learned from the longest, most controversial war in our history?

We should have learned that our people will not support a war of dubious cause.

We should have learned that conventional military might—no matter how great—cannot always prevail over a foe fighting a guerrilla war on his own grounds.

We should have learned through the shame of My Lai that a bad war can make even good men do evil.

And we in Congress learned in that war how much authority and responsibility we had let slip out of our hands and into the hands of the White House. I might add that at long last we're trying to do something about restoring the proper balance between those two branches of government.

So we learned some valuable lessons from the Vietnam War—lessons that I hope will keep us from making the same mistakes again.

And we should have learned some long-overdue lessons from the energy crisis as well.

We've had impressed upon us the relentless fact that once our traditional sources of energy are gone, they're gone forever more.

We've been on a reckless energy binge for generations, squandering precious supplies, and in our greed for luxury, comfort and convenience scarring the land to extract those fuels and polluting the air and the water as we use them.

It couldn't go on. We all know that now. The basic lesson has been driven home and driven home hard. And we can't afford to forget that lesson. We must tighten our belts. We must conserve.

And there are spin-offs from that basic lesson that are no less important.

A new awareness of the earth that sustains us. Not just a renewed respect for its capacity to meet our creature needs, not just a renewed appreciation of how natural beauty nourishes the human spirit . . . but a healthy awe for the delicate balance that makes all of this possible. An awe that should inspire even more vigorous efforts to preserve and enhance the environment and to find new sources of energy that will neither despoil, nor pollute, or run out.

And what then, should we have learned from Watergate, and that this infamous word has come to mean?

We should have learned how the betrayal of public trust could shake the nation as it hasn't been shaken for a century.

We should have learned the evil in huge sums of political money illegally collected and maliciously spent.

We should have learned that in our system of government loyalty to the people must always come before loyalty to the party or the leader . . . or both the system and the people will be betrayed.

And beyond these self-evident lessons, we should have learned that the constitution, the institutions, the procedures set down by the founding fathers two centuries ago can still meet crisis and carry us through.

We should have learned that a free press, a courageous federal judge and a responsive Congress could—and did—meet their respective responsibilities in the best traditions of a system of government that rightly holds that no man can be above the law.

My friends, I do not know when or how the Watergate story will end.

I do know that like most of you I want my President to be innocent of wrongdoing that could—and should—cost him his office.

But however, and whenever, this chapter is closed, I firmly believe our beloved nation will be stronger for having met the test.

Let me sum up then:

No previous generation of young people has had so many shocks, disappointments and disenchantments packed into so short a time.

Yet that very concentration of experiences should have better prepared you for leadership than any generation before you.

You have been exposed, conditioned and sensitized at a very young age. You have seen all the flaws and imperfections—and the greatness—early enough to get a head start on the job that faces every generation . . . making this a better world.

You come to the task, then, with your eyes wide open . . . and with all the valuable lessons of recent years fresh in your minds: the lessons about false national pride and how even good men can be corrupted by a bad war . . . the lessons about self-discipline, thrift and conservation of resources and natural beauty taught by the energy crisis . . . and the lessons about the value of truth and honor and decency and respect for venerable institutions taught by the abuses of Watergate.

So you—who seem to have inherited the worst of situations—instead have the greatest of all opportunities to create the best of situations.

I close now by thanking you for your invitation, your time and your attention . . . by wishing you Godspeed in the years ahead . . . and by repeating a challenge laid down to young people many years ago by Horace Mann.

"Be ashamed to die," he said, "until you have won some victory for humanity."

If every member of the Class of 1974—here and abroad—were to meet that challenge, then your world will, indeed, be a far, far better world for all mankind.

THE SENATOR FROM NEW HAMPSHIRE

Mr. COTTON. Mr. President, I would like to proceed for a moment.

I want to take this opportunity, as we near adjournment, and as I prepare to leave the Senate forever after 20 years in this body and 8 years in the House, to express my appreciation to my colleague from New Hampshire, the Honorable THOMAS MCINTYRE.

I have been pleased, Mr. President, with colleagues from my State with whom I have served. I came here as a freshman Senator while Senator Styles Bridges was the senior Senator from New Hampshire.

He was a lifelong friend from my early twenties.

During the years that I served with him, it was a privilege to be able to follow his leadership and accept his help in familiarizing myself with the ways and the duties of the Senate and the Senators.

When he passed away in 1961, Senator MCINTYRE was elected to take his seat. I had know TOM MCINTYRE casually from the days when he was a young lawyer attached to a fine law office in Concord, and got to know him better through the years as he practiced law in and became mayor of his own home city of Laconia.

Perhaps I may have at one time considered it somewhat of a calamity that the seat so long occupied by my friend Styles Bridges was to be filled by a member of the other party. But I want to say that far more important in my mind this afternoon, as I prepare to leave the Senate, is the fact that he became such a faithful friend and considerate colleague. Except for our difference of political philosophies and party affiliations he was just as comfortable a colleague as was my old lifelong friend, Senator Bridges.

In the years that I have served with TOM MCINTYRE we have naturally disagreed on many questions, and quite important questions. But I am happy to say that throughout all those years, there has never been one instance when our personal relations have not been most cordial. There has never been any adverse criticism or hostility in Washington or back home in New Hampshire. There never has been a time when either of us had to worry about being spoken of in an unfriendly way by the other. There never has been a time when his staff and my staff could not cooperate. There never has been a time when we were jealous of each other's publicity or crowding for the sentiment of the State.

To TOM MCINTYRE and his wonderful wife, Myrtle, I express, before I leave the Senate, my deep gratitude and appreciation for their friendship and their constant cooperation, and for their sympathy to me in some of my personal problems because of the health of my family through these years.

No Senator could have a better friend. My sole regret is that he is not a Republican—he is such a good fellow, he should be—but he certainly has made my life in the Senate much happier because of our complete friendship and mutual confidence. I thank him, and take this opportunity to thank him before the Senate.

Mr. MCINTYRE. Mr. President, will the senior Senator from New Hampshire yield?

Mr. COTTON. I am glad to yield.

Mr. MCINTYRE. Mr. President, these kind words from my senior colleague are much appreciated and will be long remembered.

From the day I entered this body some 12 years ago, the distinguished senior Senator from New Hampshire has treated me with courtesy, utmost civility, and helpfulness. I assure him that the warm friendship that has grown between us is cherished by his junior colleague.

Mr. President, it may be necessary to retain the services of the distinguished senior Senator from New Hampshire. Currently, the good constituency in New Hampshire cannot seem to determine who his successor is going to be. So it may be that we may have to ask Senator COTTON to hold over until we can decide, because the race in New Hampshire for the successor to Senator COTTON now is three votes this way and tomorrow may be two votes the other way.

I say that, of course, only in a fashion of friendliness. I do not know what we are going to do in New Hampshire about a successor, but of this much I am sure: If our friendship has contributed to an enjoyable 12 years for him, it has been twice that for me. He has my trust and admiration, and I am going to miss him. I am going to miss him regardless of who his successor will be and regardless of his successor's party.

Senator COTTON has been in many instances an adviser and a friend to whom I could go with any problem.

I say to you, NORRIS, that as the years go by, I hope we will see you down here on occasion. I know that you are going to be doing some work for my alma mater, Dartmouth College.

You and Ruth will, of course, always have my warmest and deepest friendship. Hopefully, we can always maintain that friendship. I wish you well. I wish you strength, and know you will continue to be vigorous and active in your so-called retirement.

Mr. COTTON. I thank the Senator for his very, very kind remarks. I shall cherish them.

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

Mr. COTTON. I am glad to yield.

Mr. STENNIS. Mr. President, while these two gentlemen from New Hampshire have been enjoying their friendship, it has also been for the benefit of the Senate and the country. We have enjoyed each of you. Among those enjoyments is the fine affinity and spirit of cooperation between you and with the rest of the membership of this body. I will vote now to extend Senator Norris' term, if that is possible under the Constitution.

I shall have some further remarks later. I did want to express this word of appreciation to both of you.

Mr. COTTON. I thank the Senator.

Mr. MCINTYRE. I thank the Senator from Mississippi.

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

The PRESIDING OFFICER. The clerk will call the roll

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

The Senate continued with the consideration of the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask unanimous consent that the following members of the staffs of the Committee on Interior and Insular Affairs and the Committee on Commerce be granted the privilege of the floor during the consideration of S. 3267: William J. Van Ness, Grenville Garside, Michael Harvey, Lucille Langlois, F. J. Barnes, David Freeman, Lynn Sutcliffe, Benjamin Cooper, Arlon Tussing, Patricia Ladner, Richard Grundy, and Tom Platt.

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

Mr. BARTLETT. Mr. President, I ask unanimous consent that during the vote and consideration of S. 3267, the following persons be granted the privilege of the floor: D. P. Stang, H. Loesch, Fred Craft, Roma Skeen, Mary Adele Shute, Margaret Lane, Nolen McKean, William Schneider, and Thomas Biery.

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

AUTHORIZATION FOR TWO SUBCOMMITTEES TO MEET ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Arts and Humanities of the Committee on Labor and Public Welfare be authorized to conduct a hearing on Wednesday morning.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Reorganization, Research, and International Organizations of the Committee on Government Operations be permitted to hold hearings tomorrow, December 11, on the enforcement of and compliance with the FEA oil price regulations.

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 second assistant legislative clerk proceeded to call the roll.

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

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

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

The Senate continued with the consideration of the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

Mr. JACKSON. Mr. President, before I make my opening remarks in connection with the pending legislation, I should like to have printed in the RECORD a speech made by our distinguished colleague, the junior Senator from Colorado (Mr. HASKELL) on December 4 to the Congress of Cities. It is an outstanding address. He comes to grips with some of the key problems facing the Nation. He very ably articulates the fundamental problems faced by this Nation in the area of energy and energy conservation, and I am very pleased to ask unanimous consent that it be printed in the RECORD at this point.

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

Today's discussion is pretty well framed in a remark Will Rogers made a couple of decades ago: "When we want steam, we dig up some coal; when we want wood, we chop down a tree; when we want oil, we dig a hole in the ground. It's when we run out that we'll find out how good we really are."

The United States—and for that matter, all the oil importing nations of the world—are about to find out just how good they are. We are not out of oil; indeed there is an oversupply as the oil exporting nations pump more than we can use. To that extent, at least, there is no energy crisis. But there is a new energy reality in the world and with it a crisis of another sort. The reality for today is that the cheap energy era is over. The crisis is economic.

The money managers tell us the worldwide energy dollar drain is ticking steadily toward an explosion by mid-1975. It is nothing short of the largest transfer of capital in history as oil importing nations struggle to pay monumental energy bills.

We have been most profligate of all. The U.S. was self-sufficient in energy through 1950. But in the face of a demand growth rate of 4 to 5 pct. annually, our situation has deteriorated rapidly since 1950. By last year, foreign oil comprised 35 pct. of total U.S. consumption. Various projections—and *you can* take your pick from the Federal Energy Administration, the Ford Foundation Energy Project and the National Petroleum Council—show the compound annual growth rate over the next decade ranging between 2 and 5.5 pct. Translated, that means by 1985 we will be consuming anywhere from 29 pct. to 101 pct. more energy than we consume today. Here's another way to confront the situation: We used to produce more than half the oil in the world. Now we produce only about 18 pct. but we are using more than ever and in the next 10 years we will use more than in the preceding 100 years.

Very simply, we can no longer afford our reliance upon exhorbitantly-priced foreign oil. There is remarkable unanimity on that point.

The options open to us are few and equally simple:

One, we can continue to import—and pay for—foreign oil at the present rate and risk the destruction of the world's monetary system along with our own.

Two, we can continue consuming as we always have and attempt to increase our domestic production at a fantastic rate between now and 1985. We'll have to cope with this one because if we're wrong, we still go down the drain.

And third, we can begin today to save every drop of energy we can save.

While we're talking about options, I'd like to point out that there is one option we no longer have. That is whether to pay the accumulated price for decades of wasting our natural resources. We shall pay. The only question is how we shall pay.

In my opinion, there is only one real choice and that is to conserve energy—immediately and with as much fervor as this worried but skeptical nation can muster. The alternative is to continue paying prices we can neither control nor afford for foreign oil on which we can no longer depend—as we learned last winter.

That costly and precarious supply now accounts for from 35 to 50 percent of our crude oil.

Conservation is the only course available to us which offers a solution. I think that is best shown by examining the other alternatives.

What *about* increased domestic production? Maybe that's the solution. Well, the National Academy of Engineering has detailed the progress we would have to make to stay abreast of the energy demand growth rate. By 1985, we would have to accomplish the following:

First, we would have to double coal production.

Second, we would have to increase nuclear power capacity to ⅓ of our total electrical capacity from its present five percent.

Third, we would have to double our present domestic oil and gas production. That would give us a 25 percent increase in total *energy* output.

And fourth, we would have to produce through new technology 1.1 million barrels per day of synthetic liquids from coal, a half a million barrels per day of oil from shale, and, finally, we would have to achieve modest increases in both hydroelectric and geothermal power output.

Growth on that scale is exceedingly difficult to sustain—perhaps impossible. And in my view it would be undesirable.

Let's just look at the first requisite, the doubling of our coal production. That would require development of 140 new eastern underground mines and 30 new eastern surface mines, each producing two million tons of coal per year. That would also require development of 100 new western strip mines, each producing five million tons per year. We'd have to recruit and train 80,000 miners for the eastern mines and 45,000 for the western mines. We'd have to manufacture 140 new shovels and draglines of 100-cubic-yard capacity. And we'd have to manufacture 2400 new continuous mining machines.

These figures are appalling—and remember, we just considered one element, coal. But the same figures are repeated by every source you turn to. And there's a source available to suit everyone's bias. Perhaps you'd prefer the Federal Energy Administration's Project Independence blueprint (which, incidentally, is no longer a blueprint; it's an option paper which will be studied further by the Administration). Perhaps you'd prefer studies by the industry-dominated and oriented National Petroleum Council or the final report of the Ford Foundation's Energy Policy Project.

I hope each of you will take the time to examine the source of your choice and help us, once and for all, dispel the myth that increased domestic energy production alone will enable us to keep up with growing energy demand. It's the most dangerous kind of false cure—the one which keeps us from treatment which will work.

And just for the sake of discussion, let's assume we could achieve those energy production goals by 1985. When would all this new energy begin coming onstream? Not for years. And our need was already urgent over a year ago, to say nothing of today and next year. There's many a slip between the promise of new energy sources and a tankful of gas in that car which gets us back and forth to work.

Here's just one example and it's a recent one. Oil shale in Colorado and other western states has been touted as the energy form of the future, one of our best hopes for long-term energy self-sufficiency. And it may be be. Colony, a consortium of major oil companies which has substantial private shale lands in Colorado, announced this fall it was suspending plans to begin construction next spring on its prototype plant. The tight money situation and the lack of any clear-cut federal energy program were cited as reasons. Planning, we were told, continues.

Well, so do our payments to the oil exporting countries continue. And so does the deterioration of our economy. And that, I submit, is the likely pattern if we rely on increased domestic production to wean us from the OPEC oil tap.

In my opinion, we are brought unavoidably to the only factor in the energy equation over which we have any control—demand. And that means conservation.

You'd be amazed at what a disreputable word "conservation" has become. The Nixon Administration did for energy conservation what it did for wage and price controls—destroyed it in the popular mind as a serious alternative. I don't underestimate the capacity of the American people to sacrifice. But on the other hand, I don't over-estimate their gullibility. I believe the conservation measures enacted last winter were successful mainly because we succeeded in convincing the majority of Americans that the fuel shortage was real, not contrived as many believed by the major oil companies to get prices where they wanted them.

Then Arab oil began flowing again, gasoline shot up past the 50 cents-per-gallon mark, the fuel allocation program was ended, and the gas lines disappeared. With them went most of the impetus for conserving energy. What remained quickly evaporated as record oil company profit figures hit the press.

We've got to convince Americans all over again that the economics of our energy situation are deadly serious and that conservation is deadly serious. I think that you, as mayors of the nation's cities, are in a unique position to help in that task. But I realize, too, that first you must have some leadership from Washington—leadership that has, to date, been tragically lacking. The Congress and the Administration must share the blame. There's enough delay, myopia and pettiness to go around on this issue.

More than 100 bills and resolutions were introduced in the 93rd Congress relating to energy conservation. They covered such matters as fuel rationing, the use of recycled oil, railroads and mass transit and the efficiency of home appliances and building design standards.

We passed bills calling for a mandatory 55 mph speed limit—which, as you know, isn't being enforced in many jurisdictions—and expanded daylight savings time.

The major energy conservation bill now before Congress is the National Fuels and Energy Conservation Act of 1973. The bill passed the Senate nearly one year ago—on December 10, 1973—and has been before the House Interstate and Foreign Commerce Committee since then.

That piece of legislation, which I cosponsored, is a beginning but it doesn't go far enough. It declares energy conservation to be a national purpose, sets up an Office of Energy Conservation and also an energy conservation research and development program within the National Bureau of Standards.

The act further directs government agencies to conserve energy and to establish conservation standards for such parts of the private sector as they are concerned with—

such as HUD for residential, commercial and industrial buildings.

Also called for are standards for labeling appliances for energy consumption and standards for motor vehicle mileage. The Federal Power Commission would be directed to set regulations requiring electric and gas public utilities to submit annual reports on energy conservation and any regulatory or other barriers—such as inverted rate structures—encountered in implementing conservation programs.

All this means that we, in the Senate, are committed to forcing the federal government to study and implement energy conservation measures. However, we have not gone far enough or fast enough. Our best previous effort is little more than a reporting mechanism at a time when more drastic measures are needed. And our best response—as inadequate and flawed as it is—has still been hung up in the House of Representatives for over a year.

So far the Federal Energy Administration and the Ford Administration have relied upon voluntarism as a substitute for a tough, coherent energy program. The same approach is evident in President Ford's WIN program against inflation which exhorts us to "Bite the bullet and everything will be fine." Biting the bullet as a serious national response has a basic flaw: It doesn't work.

Voluntarism in energy conservation likewise is not enough. We have, for example, 55 mph speed limits which, if enforced, could save us 250,000 barrels per day. That may not sound like much, but it is fully 4 percent of the 6 million barrels of oil we import every day.

All we have to do is enforce a law which already exists. We have been unwilling to do even that. Throughout the Administration so-called energy policies, this reluctance is evident.

For a recent example, we can look at the executive agreement the United States has signed with the OECD nations. That agreement commits us to take certain steps in response to global energy problems. The agreement requires us to set up standby rationing programs and to immediately implement other energy conservation measures. It also requires us to establish a 90-day standby oil reserve. Incidentally, this reserve is not quite the cushion it seems, for under terms of the agreement, we can count present inventories. To my notion, that's a spurious reserve because it is fuel that is already flowing into usage.

At any rate, the Administration seems determined to stick with the outdated Defense Production Act to implement the agreement rather than ask for new authority from Congress. Here again, I believe the Administration's response is grossly inadequate. An amendment was introduced Monday by Senator Jackson and cosponsored by myself and thus does vigorously attack the problem. It would force the Administration to take the basic steps the nation is obligated to take under the international agreement. But far beyond that, the amendment is perhaps the boldest Congressional move toward energy conservation to date. Basically, the measure is a beefed-up substitute for a bill which has been on the Senate calendar since April.

The standby energy authorities which the measure would establish include rationing, mandatory energy conservation programs, materials allocation, energy export limitations, information reporting and contingency planning.

A new title of the amendment—and probably most significant—calls upon the President to furnish to Congress within 60 days of enactment his proposals for reducing imports of high-priced foreign oil. This is no more than the President's announced policy; however, the legislation would require that he give shape to his so-far vague import reduction plans.

A 90-day strategic energy reserve would be established under the amendment, along with a variety of studies and reports on energy conservation policy, public transportation and other energy-related matters.

Several controversial provisions of the original bill have been left out of the amendment in hopes of getting it through Congress yet this session. We hope to resolve some of these questions—such as the high price allowed for new domestic crude oil—in some other context. For now, we simply want to get this vital conservation legislation passed.

While we have clearly lacked the commitment to and the leadership for stiff energy conservation measures, there has been no dearth of good ideas. For example, a year ago, the Treasury Department issued this shopping list of fairly simple energy conservation steps:

Set thermostats three degrees higher in summer, lower in winter; increase the efficiency of industrial energy use by a mere 2 percent; improve the energy efficiency of commercial buildings by 10 percent; begin mandatory auto tuneups every six months; use cold water detergents to end hot-water laundering; increase the load factors on commercial aircraft from 50 percent to 70 percent; and encourage car-pooling to increase the average number of auto passengers from the present 1.3 to 2.3.

Those, again, are simple steps. But they could have been saving us 2.7 million barrels of costly foreign oil per day—not in 1985 or even two years from now but immediately. They were never implemented.

If we get tough and do more than talk about energy conservation, we can save anywhere from 3.49 million to 4.02 million barrels of oil per day by 1985. That's two-thirds of our total oil imports and it converts to a savings of between $28 and $38 million dollars now leaving the country daily to buy OPEC oil.

I should mention that a comprehensive conservation effort has already been rejected—privately if not publicly—by the Federal Energy Administration. The project Independence report, weighing increasing our oil supplies versus curbing demand, takes the old conservative stand. It states that, "Implementing a conservation program has positive environmental effects and alleviates constraint, but . . ."

Now, here are the "buts": it requires intervention and regulation in previously free market areas; and it results in increased non-market costs due to more limited individual choice and changed lifestyles.

The flaw with this theory, incidentally, is that there is no free market in energy.

The President fired John Sawhill as FEA administrator because Mr. Sawhill was too enthusiastic an advocate of conserving energy, too realistic about the chances of materially increasing energy supplies.

Mr. Sawhill should have been encouraged, not canned. His catalog of possible energy saving steps reads like a calendar of vitally-needed legislation and administration actions. Here are some of the proposals: Establish a mandatory 20 mile-per-gallon standard for autos. Establish programs to increase use of public transit and discourage the wasteful use of the private auto—such as a gasoline conservation fee.

Those two steps alone could save from 1.46 to 2.02 million barrels of oil a day by 1985—and more than half that could be saved in three years.

He proposed four more steps to save from 1.3 to 1.4 million barrels of oil daily by 1985 and a substantial amount even by 1977. They included establishing mandatory thermal efficiency standards for residential and commercial buildings and mandatory lighting standards for commercial buildings and offering a federal subsidy for conservation improvements, such as insulation and weatherstripping, to existing homes.

Mr. Sawhill's wealth of good, energy-saving ideas was anathema to what the FEA describes in the Project Independence Report as a "laissez faire" approach to energy conservation.

The report states baldly that, "Prices in the marketplace are expected to bring about more efficient energy use and voluntary actions are generally applied."

Ladies and gentlemen, the FEA was expressing its faith in a "free market"—the same market which has forced us to follow OPEC price policies, which lets the major oil companies rule and which now dictates that poor people get squeezed ever-harder as a result of our non-existent energy policy.

Blind faith in the free market—which, again, is not free—has led to the callous disregard of the impact on the poor of rising energy prices and the resulting increase in most other prices.

S. David Freeman of the Ford Foundation Energy Policy Project put it well. He said, "Low income Americans spend 15 pct. of the family budget on energy, compared with 4 pct. for the well-to-do. If these low income families are to continue to heat and light their homes and get to work, they will need government help. The well-orchestrated speeches by the President and Secretary of State Kissinger about the continuing economic perils of $11-a-barrel oil have not been backed up by concrete actions to ease our demands for that oil. Vigorous energy conservation in the United States would encourage other oil-importing nations to follow suit."

I would add to Mr. Freeman's comments that a combined program of tough energy conservation and development of our most promising alternate energy sources would produce a valuable fringe benefit. It would serve as a signal to the OPEC countries that there is a limit to what we will pay for their oil.

Alternate energy research is important, and I don't want to gloss over it. In the long term, we will have to depend on new energy technologies, such as solar, geothermal and—you'll want to write this down—magnetohydrodynamics (that means burning coal more efficiently. They are doing it now in the Soviet Union on an experimental basis.) Fusion and coal, wind and wave power all have promise. But that's another speech.

This kind of research must proceed apace with—but never to the exclusion of—austere conservation measures. For today and tomorrow and the next decade, the startegies I outlined are essential. They can save us both from another energy crisis and from a burgeoning economic crisis fueled by soaring energy costs.

But those same strategies are, I'm afraid, destined to be unpopular both with the big financial interests and with the poeple who elected you and me to office.

Still it's my firm conviction that you and I have an obligation to pursue those policies and to use every means we can think of to make people understand how important they are. And that means undoing some of the energy shortfall.

I know from my own experience exactly what I'm suggesting to you, what it means and what it involves. Last December I offered an amendment to an emergency energy bill which would have required the FEO—now the FEA—to report back to the Congress within a specified period of time a plan for gasoline rationing. I got less than the 50 votes required. And I got the least support for my amendment from my colleagues who were running for office this year.

They simply did not feel they could go home to the people having voted for gasoline rationing.

In spite of that experience, I believe that those who are in the vanguard, those who advocate strict energy conservation measures and the legislation to enforce them will fare well in the future. And to go a step farther, those of us who shy away from carrying the distasteful message to our constituents

to make them understand will be held accountable.

I hope I have convinced you of two things today: First, that we must cut our dependence on foreign oil to avert economic disaster; and, second, that mandatory energy savings programs are the only way to do that.

If I have convinced you, I hope you will try to convince your constituents, then, together, get the word to your representatives in Congress that you will support strong, fairly-shared and equitably-enforced conservation programs.

Mr. JACKSON. Mr. President, last winter, this country experienced a significant national trauma in the form of the Arab oil embargo and the quadrupling of world oil prices. Faced with severe energy shortages, unprecedented price increases, and spiralling inflation, the Congress responded by passing the national energy emergency bill, S. 2589. This measure was subsequently vetoed by President Nixon on March 6. Following the veto message and the Senate's failure to override, sponsors of the emergency bill met with Secretary Simon and other administration representatives to see if agreement could be reached on legislation which both Congress and the administration could support. Agreement was reached on most provisions of the bill, but final agreement on the whole text was not reached because of differences over provisions to provide unemployment compensation to those who lost their jobs because of energy shortages.

The Interior Committee subsequently reported the bill and it has been pending on the Senate Calendar since April of this year.

Mr. President, last Thursday I introduced an amendment to S. 3267, in the nature of a substitute. The purpose of the amendment—amendment No. 2006—is to take into account a number of changed conditions and new circumstances which have occurred since April. These include signing of the International Energy Agreement, the issuance of the blueprint for Project Independence, the deteriorating world economy, the growing cost of oil imports, and the failure of voluntary conservation programs.

Mr. President, amendment No. 2006 is the product of indepth hearings on all of these subjects and extensive discussions with many of my colleagues. The amendment consists of four titles.

TITLE I—STANDBY ENERGY AUTHORITIES

Title I is closely patterned after S. 3267, the Standby Energy Emergency Authorities Act, which is pending on the Senate Calendar. Title I of the amendment sets in place standby authority to deal with energy shortages. These authorities include end-use rationing, mandatory energy conservation programs—both of which are subject to congressional review and veto—materials allocation, energy export limitations, grants-in-aid to State governments, information reporting, and contingency planning. A number of provisions included in S. 3267 were not incorporated in the amendment because of previous action by the Congress or because they could lead to extended floor debate. These include coal conversion, protection of franchised dealers, unemployment assistance, and small business information.

TITLE II—REDUCTIONS IN OIL IMPORTS

Title II of the amendment is new. This title generally concurs in the President's announced policy of reducing imports of high-priced oil from insecure sources. The title recognizes, however, that attainment of these reductions will be difficult and calls upon the President to furnish this Congress his legislative recommendations and a report on his import reduction program within 60 days of date of enactment.

TITLE III—STRATEGIC ENERGY RESERVES SYSTEM

Title III establishes a policy and takes the first steps toward creation of a national system of strategic energy reserves. The policy is to create, over a period of 3 years, strategic storage reserves capable of offsetting a 90-day supply interruption of all oil imports. This title creates a Strategic Energy Reserve Office in the Federal Energy Administration, directs the development of a prototype salt dome storage program, and requires reports to the Congress within 90 days on the implementation of the policy establishing industry, electrical, utility, and national defense strategic reserves.

TITLE IV—STUDIES AND REPORTS

Title IV requires a number of specific studies and reports concerning energy conservation policy, public transportation, and other matters.

Mr. President, it is not my purpose today to recount for my colleagues how the government came to find itself unable to take the positive and timely action called for by the actual and potential threat to the economy, the security, and the welfare of the United States because of our excessive dependence on high-priced oil imports. The Senate does not need reminding that this Congress passed and sent to the White House a bill granting authority to deal with energy emergencies and that that bill was vetoed. Those events are history and are behind us.

What I urge today is that the Senate, by passage of the amendment which many of my colleagues and I have introduced, provide the President with the tools he needs to address in a meaningful way the impending crisis facing the Nation.

It has become increasingly apparent that voluntary energy conservation is falling far short of bringing about any essential reductions in energy consumption and our reliance on imports. In announcing next Saturday's meeting of the President's energy and economic advisers to address the problem, the White House explained that "It does appear that the President's hopes for reducing oil imports are not being realized to the extent he had hoped."

To put it quite simply, Mr. President, we are running out of time. The need for a reduction in imports is clear. That energy conservation is essential to achieving such a reduction is evident. Voluntary measures for the conservation of energy have simply proven inadequate. Stronger action is required.

The administration has announced that the President is soon to be presented with a list of alternative measures for energy conservation. From that list he will choose those for future implementation. His decision has been promised for the third or fourth week of January. The problem, however, is that there is no statutory authority for most of the conceivable alternatives. Consequently, unless this Congress acts before adjournment, the President will not be able to develop and implement programs. Rather, he will be limited to proposing legislation and appeals for belt tightening. The implementation of urgently required programs will, of necessity, be delayed for such period of time as may be required for the enactment of statutory authority in the next Congress.

Mr. President, passage of S. 3267, as amended, would eliminate this needless and senseless delay of action by the executive branch of the Government.

The amendment would grant to the President the authority that he must have for every potential energy conservation program except one—the imposition of a tax on gasoline. And as we are aware he has repeatedly stated that he does not seek and does not wish authority to impose such a tax.

The grant of authority for standby rationing and conservation provides for the review and veto by the Congress of the plans prior to their implementation. That provision is essential. It is essential because the decisions ahead that must be made will be difficult ones and the Congress has the duty and the obligation to share in the responsibility for them. It is essential because the methods for which the President will opt are not yet known. It is essential as a safeguard.

In order to optimize and expedite production of energy from domestic sources, S. 3267, as amended, would authorize the allocation of materials in short supply that are essential to energy production. It would also authorize the restriction of exports of fuels and energy and of material essential to their discovery, development, or production.

Mr. President, during the embargo, the role played by State government was critical and State government has a continuing role to play in energy policy. The amendment recognizes that role and provides for funds for State programs.

In support of the International Energy Agreement recently signed by the United States, the proposed amendment makes provision for the sharing of critical energy information with the other nations who are parties to the agreement.

Also, the amendment provides for the development and transmittal to the Congress of contingency plans for implementation in the event of severe energy shortages.

The amendment would put the Congress on record as endorsing President Ford's policy for import reduction and require the submission of legislative recommendations for implementation of that policy.

Lastly, the amendment establishes, as policy, the creation of a national strategic energy reserve capable of offsetting a 90-day interruption in fuel imports. Title III creates the reserve system and establishes an office for its management to be headed by an administrator. It requires the Administrator to submit to the Congress recommendations for a detailed program for the establishment and maintenance of the reserves. Furthermore, it requires the implementation of

a petroleum storage prototype program so that the technology for the storage of large volumes of petroleum is at hand when the future administrative and managerial decisions are made.

Mr. President, the bill, as we would amend it, is a good bill. It is a needed bill. It represents a congressional effort to join with the administration in a unified response to the political threat we face from abroad to prevent the needless suffering the American people will endure if adequate standby authorities are not adopted.

It is true that there are major issues not addressed in this bill, in particular, that of domestic energy prices. The current prices allowed for new domestic oil serve no useful economic purpose. These prices constitute an unwarranted windfall for domestic producers and give an undeserved aura of legitimacy to the unilateral price setting of a cartel of foreign producers who are apparently insensitive to the threat their actions pose to the world's economy, the international financial system, and the less developed countries. I do not propose, however, to debate this issue in the context of Senate consideration of the present amendment.

The precarious and uncertain energy future we face requires prompt action to vest the President and the executive branch with standby authority to deal with supply disruptions, to honor international commitments under the international energy program, to initiate contingency planning, and to develop specific recommendations to the Congress for limiting imports and establishing a system of strategic oil reserves.

It is for that reason that the amendment in the nature of a substitute includes only provisions where there appears to have evolved essential agreement between the Congress and the administration. Specifically excluded are subject areas where significant policy differences are known to exist. In the interest of passage of this legislation, I shall, for the same reason, oppose all controversial amendments.

I have written to President Ford to express the hope that the administration would be able to support the measure. I would hope that my colleagues can as well. Given the very real problems with which America, and particularly, the American economy, is today confronted, the passage of this legislation before adjournment is an obligation of this Congress to the American people.

Mr. President, permit me to add that on September 27, I wrote to the President of the United States outlining a bipartisan course of action on by which I had hoped we could join together in a mutual effort to proceed on those issues on which we could reach an agreement, and leave other controversial issues for debate at a later time.

Mr. President, I feel very deeply that what is needed now is a determined bipartisan effort on economic issues that covers the international area as well as the national area.

We cannot go on waiting and postponing as we have for over a year. I say to the Members of this body that unless we get some action soon, the lining up at the gas pumps earlier this year will be nothing when compared with the impact of the oil cartel's petroleum pricing policies on the financial structure of the Western industrialized nations.

Lest anyone have any doubts about the seriousness of this problem, I would only remind the Members of this body that it was David Rockefeller, in an interview with Hobart Rowen, the financial editor of the Washington Post, who stated in the latter part of August that we are on the verge of a possible financial panic.

Much of this we discussed in a prolonged debate earlier in the year, and that is behind us. But, Mr. President, the pricing structure of the oil cartel is causing a massive transfer of wealth, which can lead, if it continues, to national bankruptcy.

Appearing before the Permanent Subcommittee on Investigations was Alan Greenspan, the chairman of the Council of Economic Advisers, and Dr. Wallich, of the Federal Reserve, an international authority on international finance.

Both gentlemen agreed, and the entire panel of witnesses agreed, that if the price of oil internationally stays at the current level, there is a danger for many nations of national bankruptcy within 2 years.

Those are facts. Italy, for example, required a $3 billion loan from the German Central Bank to pay its oil bill the first of the year. Mr. President, American banks have $10 billion in private loans in Italy that fall due next year. What happens to our financial institutions if they cannot be repaid?

In 1960, American banks, in terms of financial resources, had $3 billion abroad—$3 billion in 1960 in financial banking resources abroad. What was the amount for the first quarter of this year? $123 billion of banking resources abroad. Mr. President, for better or for worse, we the nations of the industrial world are not only interdependent economically, but interdependent financially.

I say that we need indeed to move on first things first, and the first thing is to take the urgently required steps in a massive effort to cut down on the amount of oil we are importing. The administration agrees that at a minimum, we can save a million barrels a day through various conservation measures.

We cannot do it, Mr. President, on a voluntary basis. It is not happening. We are importing in excess of 7 million barrels a day. We are consuming, Mr. President, in excess of 17 million barrels a day.

In connection with the international energy agreement, we have entered into certain understandings regarding conservation and certain understandings regarding contingency plans for reserves and equitable burden sharing in the event of an international cutoff.

Mr. President, what is needed is the necessary authority to take the necessary steps to avoid the beginning of what could be the financial bankruptcy of the Western industrialized nations.

That is what is involved here, because we are talking about the transfer of billions of dollars of wealth. If continued on this scale, it could not simply lead to the bankruptcy of this country. Think of what is happening already and will continue to happen in the countries that have been buying American manufactured products.

Mr. President, the first priority in the countries that face this financial situation will be to provide for food and absolute essentials. They will start canceling orders for manufactured goods. We will feel it here; and this is what could be the beginning of a world depression. They simply will not have the financial resources to buy; and that will hit every industrialized nation, and will hit especially hard the United States of America.

Mr. President, I want to see a bipartisan effort made here for the good of the country. We all know there will be an election in 1976. There was one last month. I feel very deeply that we cannot wait until 1976 for meaningful and decisive action.

We are in an unprecedented crisis. I think that the American people, Republican, Independents, and Democrats alike, are looking to Congress to cooperate with the President, and the President to cooperate with Congress, in order that we can maintain the necessary financial posture, which is a condition precedent to any kind of economic recovery.

They expect that of us, Mr. President. It was for that reason that on September 27, I wrote to the President and made it very clear that I sought a broad consensus. I ask unanimous consent that my letter of that date be printed in the RECORD.

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

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., September 27, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: I know that you have been aware of my concern, since long before the Arab oil boycott, over this Nation's deteriorating energy posture and the actual and threatened impact of spiraling prices and insecure supplies upon our economy and our national security. In recent months I have given particular attention to the ruinous impact of OPEC oil prices on the economies of the United States and other developed and less developed countries. Together with many other members of Congress of both parties, I have been disappointed by the apparent lack of Executive Branch appreciation for the gravity of the present crisis for the economic and political stability of the entire free world.

Your speech in Detroit and Secretary Kissinger's address to the U.N. General Assembly on September 23, 1974, reflect a new awareness that the situation created by the ever-growing exactions of the oil exporting countries cannot be borne and a determination that it will not be tolerated. I remain deeply concerned, however, that if this new determination is not matched by a concrete program of legislative, diplomatic and strategic initiatives, it will lack credibility with the OPEC governments, with the other importing countries, and with the American people. In my view it is both urgent and essential that Congress and the Administration work together to implement a realistic program for energy conservation, increased domestic production, and to develop the national capability to withstand a total interruption of OPEC imports without severe injury to our economy.

The first priority, I believe, is to reduce the

maximum prices of domestically priced crude oil to a level consistent with its long term supply cost, at most $7 to $8 per barrel. The United States is still two-thirds self-sufficient in oil and four-fifths self-sufficient in total energy. Our appeal to the governments of exporting countries to reduce prices will carry little conviction as long as we permit and encourage our own producers to charge the exorbitant prices set by OPEC.

Such a price reduction should be coordinated with action to limit the tribute we will pay to the producing countries: I propose a strict policy that our total dollar outlays for imported oil will not increase above current levels. The volume of imports would be allowed to increase further only in response to proportional price reductions.

There is a broad area of consensus within the Executive Branch and within the Congress on the other elements of a national energy program. Yet, the measures actually taken by the two branches to date are inadequate in the face of the current threat to our economic welfare and indeed our way of life. Legislation providing for a national energy conservation policy and acceleration of oil and gas development on the Outer Continental Shelf have passed the Senate, but have not been acted upon, in the House in part, I believe, because of disinterest or ambivalence in the Administration's position. Two major energy research and development bills have been immobilized in House-Senate Conference for essentially the same reason.

Legislation to provide standby energy emergency authorities (gas rationing, conservation plans, allocation of critical materials, etc.) and to direct a program of energy contingency planning is on the Senate calendar but requires executive support for final passage. Bills providing for creation of strategic petroleum reserves and for development and further exploration of the Naval Petroleum Reserves have failed to move despite intense Congressional interest, partly because of Congressional jurisdictional rivalries and indecision within the Executive Branch.

Other vital elements of a credible national energy program, like reform of natural gas pricing and taxation of the energy industries, have yet to move only because neither Administration nor Congressional leadership has yet been exerted to compromise and overcome stalemates between diehard ideological or interest group coalitions.

Definitive action in all of the foregoing areas is possible in the present session of Congress, in my opinion, only if you and the Congressional leadership join in a public, bipartisan commitment to enactment of a comprehensive national energy program. Although I have introduced or participated in developing legislation on almost every one of these issues, my request today is *not* for unqualified Administration support of my own legislative program. Undoubtedly some elements of a bipartisan energy program will have to be drawn from bills already in the legislative process; others inevitably will more closely resemble proposals developed in Executive agencies. What I ask—and offer—is a mutually accommodating effort to formulate and expedite a series of legislative measures that can be sponsored and supported by both the Administration and the leadership of Congress.

Specifically, I urge and recommend—

First, that you and the Committee Chairmen with principal responsibility for energy matters meet in the coming week to formulate an Agenda for energy legislation to be passed and signed into law during the present Session. The attached list outlines the items that I believe must be part of such an Agenda, and on which I also believe action could be completed in this Session.

Second, that staffs of the appropriate federal agencies and Congressional Committees, together with such outside experts as may be required, be directed to draft legislation which will be jointly acceptable to their principals in each area encompassed by the Agenda.

Third, that the resulting bipartisan legislative program be presented to Congress before it recesses in October, with the sponsorship and support of both the Administration and key members of Congress, and that both Branches treat this program as their first priority.

I further suggest that, concurrent with the development and enactment of this legislative program, a continuous and structured dialogue be implemented in a format jointly arrived at, between the President and his leading advisors, and leading members of Congress, regarding the diplomatic, international economic and strategic initiatives that must be carried out in concert with our domestic energy program to lower the world price of oil and to forestall a world economic collapse.

The separation of the Branches of government, partisan rivalries and the jealousies among executive agencies and among Committees of Congress, would in ordinary times make a proposal such as I have set out here unrealistic. These are, however, extraordinary times. Our security, our economic system and our way of life are at stake.

I recognize that the Administration and the Congress will have different views on many specific issues. There is, however, broad consensus on goals and on essential major programs. It is, in my view, essential that someone take the initiative to build a positive and credible national program.

I am, of course, ready to meet with you or your representatives at any time to discuss this proposal in greater detail.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

A PROPOSED AGENDA FOR IMMEDIATE ACTION ON ENERGY POLICY

PRICE AND IMPORT POLICY

1. *Limitation on the price of all domestic crude oil to a level that reflects its long-term supply price* (no more than $7–$8 per barrel) rather than the dictates of the OPEC Cartel as a major element in a concerted effort to control exorbitant prices, reduce domestic inflation, and prevent unreasonable profits by exporter governments and U.S. companies alike.

2. *A freeze on total dollar outlays for oil imports* at no more than current levels, with licenses to import oil allocated by secret bid auction.

3. *Taxation of windfall oil and gas profits*, beginning with immediate repeal of special tax preferences (percentage depletion and expensing of intangibles) on all oil and gas not subject to price control.

CONTINGENCY PLANNING

4. *Extension of the Emergency Petroleum Allocation Act and establishment of standby emergency authority* adequate to cope with a total interruption of OPEC imports, through gasoline rationing, conservation plans, allocation of essential materials, and appropriate export restrictions.

5. *A system of strategic petroleum reserves* composed of salt dome and tank storage by industry and the Federal government equal to at least ninety days of imports.

ENERGY CONSERVATION

6. *An urgent energy conservation program* with special emphasis upon a 30 percent increase in automobile fuel mileage beginning with the 1976 model year, on redesign of electric and gas utility rate structures, on development of state and local energy conservation programs, and on enforcement of highway speed limits.

PRODUCTION

7. *Federal authority to increase petroleum production and productive efficiency*, including mandatory unitization where state law does not provide for it, Maximum Efficient Rate (MER) of production, and prohibition of market demand prorationing.

8. *Development and production of the Naval Petroleum Reserves in California and Wyoming* to fill the Federal component of the strategic reserve system, and *prompt exploration of Naval Petroleum Reserve No. 4* on the North Slope of Alaska.

9. *Acceleration and improvement of geological assessment and leasing on the Outer Continental Shelf.*

10. *Reform of natural gas pricing* to provide adequate incentives for new supply, and to permit interstate pipelines to obtain new gas, without allowing natural gas prices to be determined by OPEC oil prices.

ENERGY RESEARCH AND DEVELOPMENT

11. *A $20 billion, ten year energy research and development program* with specific goals, objectives and timetables along the lines of legislation now in House-Senate Conference.

12. *Creation of an Energy Research and Development Administration* to administer the national energy research and development effort.

Mr. JACKSON. I again wrote to the President on December 5, because the situation continued to deteriorate. I ask unanimous consent that that letter be printed in the RECORD at this point.

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

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., December 5, 1974.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: On September 27, 1974, I wrote to you to express my deep concern over this nation's deteriorating energy posture and the actual and threatened impact of spiralling prices and insecure supplies upon our economy, our independence in determining foreign policy, and our national security. I noted at that time that there is a broad area of consensus within the Executive Branch and within the Congress on many of the elements of a national energy program to deal effectively with these problems.

What I asked—and what I offered—at that time was for a mutually accommodating effort between the Executive and the Congress to formulate and expedite a series of legislative measures that could be sponsored and supported by both your Administration and the Congress before the adjournment of the 93rd Congress.

Earlier today, I introduced an amendment in the nature of a substitute to S. 3267, the Standby Energy Emergency Authorities Act, a bill which is pending on the Senate calendar. This amendment is designed to provide the country with the standby legislative authority necessary to deal with the shortage conditions we may face this winter, to implement recommendations developed in the blueprint for Project Independence, and to implement the International Energy Agreement recently entered into with other OECD countries.

It is my earnest hope that your Administration will be able to support this measure. I fully recognize that the Administration and the Congress have different views on many specific energy policy issues. There is, however, broad consensus on goals and essential major programs which are necessary to the maintenance of our national security and to the vitality of our economic system. I have endeavored to include in this amendment only those provisions on which I believe there is agreement between Congress and the Administration. I have specifically excluded subject matter areas where I am aware that there are significant policy differences. I am prepared, in the interest of passing needed

and agreed upon legislation, to oppose controversial amendments.

The Senate leadership has committed itself to call this bill up in the very near future, perhaps as early as next week. It is my hope that the amendment in the nature of a substitute would have your support.

I am enclosing for your review a copy of my letter of September 27, the amendment, a dear colleague letter, a summary of the amendment, and excerpts from recent statements by Administration officials on the need for the legislative authority contained in the amendment.

Should you have any questions on this matter I am, of course, available to discuss this proposal in greater detail with you or your representatives.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Mr. JACKSON. Mr. President, I received from the President of the United States a letter this afternoon, which I would like to read in connection with the pending measure. I shall also read my response to him:

THE WHITE HOUSE,
Washington, December 10, 1974.

Senator HENRY JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This is in response to your letter of December 5, 1974, requesting comments on proposed amendments to S. 3267. I feel very strongly that the Nation's energy situation is serious and that a high level of imports of expensive foreign petroleum is very harmful to the economy. A number of the points you made in your letter are consistent with these views.

An effective response to our energy situation must include sound actions to reduce unnecessary energy demand, increase domestic energy supplies and, wherever practicable, convert existing and new energy requirements from oil and natural gas, which would have to be imported, to coal or other energy resources that can be produced domestically. Several pieces of legislation have been proposed by the Executive branch over the past three years which would provide the basis for such actions and it continues to be the hope of my Administration that the Congress will act soon on these bills. Prompt action is particularly needed on bills which would lead to increased production of domestic energy resources such as the bill to allow competitive pricing of new natural gas supplies.

As requested in your letter, a review has been completed of the bill that you have introduced as an amendment in the nature of a substitute for S. 3267. Although limited in scope, some parts of the bill, if appropriately modified, could provide useful standby authority for an emergency situation to help allocate shortages, to reduce consumption, and to provide certain authorities to meet potential international obligations.

I recognize and appreciate the efforts you have made to solve problems with earlier versions of the bill, particularly the elimination of a number of objectionable provisions, I would note also, however, that there are several problems with this latest version that would have to be changed for the bill to be a useful contribution to our current needs. Among the major problems are the following:

1. The proposed standby conservation authority is so constrained—including a six-month limit on the life of any energy conservation measure—that both Federal and State efforts to achieve conservation would be in a constant state of uncertainty. (As an alternative, the Special Energy Act proposed by the Executive branch in March 1974 would provide effective authority.) There are also several other problems in Title I which I hope can be resolved in a reasonable way.

2. Additional legislation may be needed to authorize desirable international cooperation in the event of a future embargo. However, our current assessment is that the provisions you have included are not adequate and some provisions of the bill might work to prevent necessary cooperation.

3. The provisions of Title II regarding oil imports could be counter-productive. For example, the detailed and sensitive nature of reports that would have to be submitted to the Congress could undermine efforts to gain the confidence (and understanding) and cooperation of other nations in sensitive international negotiations.

4. I am especially concerned about the provisions of Title III which would require the establishment and maintenance of strategic energy reserves in storage capable of replacing fuel imports for ninety days. Although there are differing opinions as to the advantages and disadvantages (including the tremendous cost and added pressure for importing more expensive oil) of such an approach, I do not rule out a policy that would support some form of expansion of existing reserves or inventories. I do believe however that your bill is premature and may go too far.

My Administration is anxious to work with the Congress in developing useful and effective legislation that will help solve our Nation's energy problems. Although I cannot support the bill in the form offered, Administration officials would be pleased to work with you to help solve the problems with the bill and to work on other measures that will help increase domestic energy production.

Sincerely,

JERRY FORD.

Mr. President, I would like now to read the letter I sent in response to the President this afternoon:

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., December 10, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: I have just received today at 2:00 p.m., your response to my letter of December 5, 1974, in which I offered my assistance and urged your support for the adoption of an amendment in the nature of a sustitute to S. 3267, a major energy bill pending on the Senate calendar.

The purpose of my letter of December 5th, was to ascertain whether it would be possible to develop a mutual and cooperative response by the Congress and the Executive Branch to develop a meaningful program for mandatory energy conservation, limiting imports of high priced oil from the insecure foreign sources, and initiating the development of a comprehensive strategic oil reserve policy.

It is, of course, my view that if action is not taken in each of these areas on an urgent and meaningful basis, our foreign policy could be gravely compromised, our domestic economy will continue to be ravaged by inflation, deepening recession, rising unemployment, and the system of international finance may collapse. These threats to domestic and international well being are, in major respects, a direct result of our failure to develop a coherent, unified and bipartisan response to the dangers presented by the unilateral and arbitrary actions of an international oil cartel.

I had hoped that your response to my offer would lay the groundwork for urgent and effective cooperation to protect and promote the national interest. I am not sure that my hope or my expectations have been entirely fulfilled. However, because of the pressing need for action on a national energy program—action which the Administration cannot take under present authority—I am glad to accept your suggestion that "Administration officials would be pleased to work . . . to help solve the problems with the bill . . ." that you have identified. In my view, your Administration cannot wait six months or a year for authority it urgently needs today.

In the belief it is still possible to present the American people with constructive, bipartisan, and concerted efforts on the part of Congress and the Executive Branch to deal with the critical energy and economic problems we face, I have instructed my staff to initiate negotiations this afternoon with representatives of the Administration to narrow areas of disagreement and to see if an agreed-upon bill can be arrived at. I will be available to review the results of these negotiations with you or your representatives tomorrow morning before the Senate goes back in session.

With warmest regards,

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Mr. President, I stand ready to meet with the White House representatives at any time. My staff is available and I would like for them to meet tonight. I am informed, however, that the administration is not prepared to meet tonight.

Mr. President, what disturbs me—and this has been going on now since early this year—is the apparent lack of a sense of urgency and purpose on the part of the White House.

I must say that I still hope that we can identify areas in which we can reach an agreement. We are all in politics, we have different points of view, this is obvious. But, the country comes first. I would hope that we can now move to provide the authority that the President must have, particularly if he is going to carry out the international energy agreement, and I say that in the best spirit of good will, with a desire that we can achieve a bipartisan policy in this area.

Mr. President, it has long been my view that we needed mandatory authority in the area of conservation. It is clear that the voluntary programs are not working. It is clear we have done in this Congress, everything we could do since the emergency energy bill was passed to give the President that authority.

There are some details in the proposed amendment with which the White House disagrees, I understand that. We are prepared to sit down and negotiate those things.

But it is high time that we do establish that sense of urgency which is essential if we are to provide the leadership for the Western industrialized world in this time of peril, in this time of serious crisis—things we warned about when the earlier bill was vetoed, that provided this authority.

President Ford is not responsible for President Nixon's veto. So I want to start anew here and see if we cannot reach an agreement, before Congress goes out of session, to deal with the most urgent matters.

Mr. President, I have agreed to oppose all other amendments except those that relate specifically to the necessary emergency authority that the President needs, particularly in the area of conservation, as I outlined in my remarks here today.

I am now pleased to yield to my distinguished colleague, the Senator from Colorado.

Mr. HASKELL. Mr. President, I thank the Senator.

I would like to take this occasion to congratulate the distinguished Senator from Washington, the chairman of the Interior and Insular Affairs Committee, for his leadership in the conservation matter.

The logic behind the amendment introduced as a substitute is inescapable. There is unanimous agreement that our country financially cannot afford continued dependence on foreign oil.

I think the latest voice to echo this was that of Arthur Burns, not known for his flightiness, let me say.

Mr. JACKSON. Will the Senator yield?

Mr. HASKELL. I am happy to yield to the Senator.

Mr. JACKSON. My good friend is precisely right. The administration concedes that if this present situation continues, we will have national bankruptcies, and that is in their testimony—Allen Greenspan so testified supported by Dr. Wallach of the Federal Reserve Board.

Italy is today on the verge of insolvency. I hope we start moving here before the roof caves in.

That is what I am trying to suggest, and I deeply appreciate the Senator's comments.

Mr. HASKELL. And every responsible economist I have heard from agrees with the Senator.

So this then leaves, basically, two alternatives. One alternative is just to try desperately to increase production, and there is a recent publication put out by the National Association of Engineers which details what would be necessary.

This has two, maybe three, drawbacks. No. 1, there is considerable question whether we could do it. No. 2, the time frame over which we would do it would not be acceptable.

Barring conservation, for example, our energy consumption by 1985, depending upon the past figures, the use will be somewhere between 29 percent and 101 percent more than we now consume.

The other option is to go into a vigorous conservation program together with increased production on a more modest scale and a development of new energy sources.

The possibilities on the conservation phase are immense. No. 1, the time frame is shorter for the bite to take place, of reduced consumption. No. 2, the bite is substantial.

The Treasury Department 6 months ago put out a list of relatively minor conservation measures and estimated a savings of 2.7 million barrels a day.

The Federal Energy Office more recently came out with a relatively simple series of recommendations which when implemented over a few years' period would result in somewhere around 4 million barrels a day of reduced oil use.

Now, Mr. President, it is just absolutely essential that we go into conservation. As I say, logic dictates it. Of course, logic does not always prevail, but logic does dictate it.

I again congratulate the Senator from Washington for taking the leadership toward mandatory conservation measures which, when coupled with a development of new energy resources, additional production on existing resources, will take care of this Nation.

Mr. President, at this point I would suggest the absence of a quorum.

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

Mr. McCLURE. Will the Senator withhold that request?

Mr. HASKELL. If the Senator would not mind, the Senator from Washington has been called from the Chamber and I would like to have him come back at such time as the Senator from Idaho gives his statement, that was my only reason for putting in the quorom call.

Mr. McCLURE. That is all right.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. 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. McCLURE. Mr. President, I think the Senator from Washington has accurately stated the desire of the President of the United States to move forward in the energy field in terms of conservation, in terms of allocation, in terms of import policy.

I think it should be restated for the RECORD that the bill which is pending before this Senate now was reported by the committee on April 19, was debated on May 8 and May 13, and following that debate it was removed from active consideration and has not again been called up between May 13 and this date.

The Senator from Washington is correct that a committee print, a working draft dated November 27, has been submitted and a dear colleague letter circulated his desire to move forward on December 2. That substitute was introduced on December 5, and the same day a letter was directed to the President.

I think it should be noted that the minority has not been consulted, the minority staff has not been working since May 13 with the majority staff in the development of this substitute, so the substitute is not at this writing a bipartisan effort. But I think we share with the Senator from Washington the desire that it be a bipartisan effort.

It will require some kind of an effort to bring together the viewpoints of both the majority and the minority on the committee as well as the viewpoints of the Congress and of the administration.

The President's response dated December 10, which is today, which was read into the RECORD by the Senator from Washington, indicates not only their willingness, but their desire to cooperate in the development of legislation which can go forward.

I think it is important to note that the earlier bill which was vetoed by President Nixon was vetoed for reasons which were sustained by the Congress in the effort to override that veto and that some of those provisions that were in the earlier measure were restated in some degree in the measure which is pending before the Senate, but not—and I add significantly not—restated in the substitute which the Senator from Washington has now introduced.

I think the deletion of some of those items is good evidence of the good faith of the Senator from Washington and others who do desire to see legislation move forward.

I refer specifically to three different areas in the original legislation. Price rollback, which was in the original, which was not included in the pending legislation but which the Senator from Washington indicated in the committee deliberations that he intended to offer as an amendment when it was considered on the floor; emergency unemployment compensation, which was a part of that original legislation and a part of the pending legislation, but not a part of the substitute; and extensive antitrust legislation as a part of the emergency energy act in both the vetoed measure and in the pending measure, but again, not in the substitute.

These are precisely the areas that those of us who opposed the original legislation suggested should be deleted if there were to be constructive legislation. Those of us who have labored with the Senator from Washington in the vineyard attempting to get legislation of the kind that we think is necessary can only applaud the efforts that have been made to come to a compromise now in regard to this legislation.

On an associated matter which is not directly in point, but, nevertheless, is pending at the same time and deals with our ability to confront and deal with the legislation that is pending, even in the negotiations now pending between the White House and the Congress, are the nominations of two men that have been submitted for confirmation in the Federal Energy Administration.

The confirmation of the name of Mr. Conant, which was first submitted on September 5, and again submitted on November 18, still remains pending.

The nomination of the President for the Administrator of Federal Energy Administration, Mr. Zarb, was submitted on December 2.

The committee has held hearings. The committee has voted to confirm Mr. Zarb. That committee action is pending at the desk. I would hope that we might yet act on that confirmation.

It is important that we do these because Mr. Zarb will be the responsible Federal official who will be bringing together the team to negotiate the terms of this legislation.

Mr. Zarb is with President Ford in New York. He informs us that he is willing by phone, and is undertaking by phone, to assemble the team of administration people who would be necessary to work on the terms of this legislation, and that he will be ready to work on this tomorrow morning. That is, I think, evidence of their desire to go forward.

I would submit it might be a good idea to have Mr. Zarb confirmed and in his office at the time he is sitting down negotiating on this.

Similarly, Mr. Conant, who is to be the expert in the FEA working in the field of international energy requirements and flow, would be a desirable person to be participating in the negotiations that

deal with sensitive matters, such as the import of energy from overseas and the implications of the costs of that energy when it is imported.

That confirmation also should be moved forward on the calendar of the Senate if, indeed, we are really honest and sincere in our attempts to come to grips with what is a fundamental question.

I do not mean by that comment to question either the honesty or sincerity of any of the persons who are involved in the negotiations.

If we are to move forward, I believe we must recognize that there are personnel who are involved in those negotiations, the nominations for whom are still pending.

We do face a serious problem in energy. We do face a very serious problem in the economy as it is distorted by the cost of that energy. My information would indicate that we are consuming today nearly 18 million barrels of oil a day, both foreign and domestic. That is up by over 1 million barrels a day over the corresponding period of last year.

Similarly, the importation of foreign oil has increased slightly more than the increase in total daily consumption, which is simply another way of saying domestic consumption has declined while overall consumption has increased. Therefore, our dependence upon foreign oil from all sources has increased, as does then the balance-of-payments problem increase as a consequence of the international economic community.

So for all of these reasons, the minority shares with the majority on this committee, and I think in this Congress, the sense of urgency, which has not really been found, in terms of legislative enactment.

In spite of all of our speeches the only gas that has been produced is under the Capitol Dome. That has not been a very constructive addition to the Nation's energy.

I would hope that we can, between now and tomorrow, start to formulate the minimal programs upon which agreement can be found so that we can move forward on this legislation in good faith, as the Senator from Washington has suggested and, hopefully, that before this week is out we will have an agreement upon minimal legislation that can then be submitted to the Congress for approval.

Mr. President, I yield to the Senator from Maryland to propound a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Mr. Stuart Janney of my staff be allowed privilege of the floor during the debate on this measure, at whatever time, whatever day it may occur, until the conclusion of this debate.

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

Mr. MATHIAS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, we find ourselves in a very crucial time, a time when we know that we do not have sufficient energy; a time when the people across the country do not necessarily believe that. Many of them think we do have sufficient energy. Yet it has been apparent to those who are familiar with the ability of this country to produce energy, and the ability to import energy, that we have been unable to supply our needs for several years.

In addition, it is apparent today that we are on a collision course with economic disaster if we continue the high level of imports of high-cost foreign oil. So it is obvious that we do need to take action.

I agree with the distinguished chairman that we need a bipartisan approach, and we need bipartisan support for an energy policy.

It is said today that we do not have an energy policy and, in one sense, that certainly is correct.

There is no consensus behind an energy policy that will bring about energy sufficiency for this Nation.

On the other hand, the administration has advanced programs that will bring about energy sufficiency, but these have not been agreed to by the Congress.

Our energy approach at the present time amounts to one that is based on price controls that are desired by the majority in Congress and acquiesced in, at least in part, by the administration.

It is apparent from our record in price controls in other areas of endeavor that this will not permit private industry to bring on sufficient product.

I think as we look to this emergency energy bill, as we have looked at other emergency energy bills, that we must face up to the fact that we must not only reduce our use of energy, that we must not only reduce the imports of high cost foreign oil, but that we must, at the same time, increase supplies.

There are those who say, hope, and pray that the OPEC nations will reduce the price of imported foreign oil. But I think that is wishful thinking as long as this Congress and this Nation send messages to the Arab countries and the other OPEC nations that we are not all that unhappy with the high cost of foreign oil.

Those messages that we have sent over the past year or so have consisted of a reluctance to market without delay the largest oil field that the United States has, which is on the North Slope of Alaska. That is the largest oil field in the Continental United States.

It was only on a tie vote being broken by the Vice President of the United States that we now have any action and construction of the Alaskan pipeline.

The members of the OPEC countries can look to this body for a vote, along with the House, very one-sided, supporting a rollback in prices for domestic crude oil.

Congress has also refused to deregulate natural gas. These are positions that have been taken by the administration and by some in Congress around which to build an energy policy that will not only result in reduced use of energy and reduced imports of high-cost energy but will likewise and at the same time increase supplies.

So I think it is very appropriate for the distinguished chairman of the Committee on Interior and Insular Affairs to present another emergency bill. The emergency bill should deal with the emergency to be resolved and must have provisions that will permit the restrictions to be removed and the shackles to be removed from the energy industry, so that there will be an opportunity to produce sufficient supplies.

There are those today who are talking about reducing the demand through a tax on gasoline. They want to put this reduction of demand on top of the present energy program, which is one of price controls; and by the very nature of the price controls, this program increases the demand for energy rather than reduces it. So we are going to have an economic tug-of-war which certainly will work to the benefit of the OPEC nations and will increase the demand, rather than remove the shackles, and provide the opportunity for the free marketplace to bring about additional supplies of conventional energy, bring about additional supplies of alternate sources, and bring about additional research and development of new sources of energy.

I am convinced that the people of this country want more than the kinds of promises they have been receiving—promises of allocation, rationing, shortages, long lines. I think they want the assurance that we will have a program in the United States that will promise, sometime in the future, adequate supplies of energy.

I am convinced that the people want to know that the program will work. They also want to know that the energy companies will reinvest their profits into the ground, in the drilling of oil and gas wells, into alternate energies, such as oil from shale and energy from coal, and in research and development of new energy sources—solar, geothermal, and others.

I honestly believe that the people of this country want more than just talk and rhetoric. They want a bipartisan approach and plan.

Recently, the Chancellor of Germany, Chancellor Schmidt, was in our country. I believe he stated on several occasions that his nation has permitted the price of gasoline to seek its own level, and as a result, they have reduced consumption by some 10 percent. Interestingly enough, their price is about twice our price. Germany does not have the advantage of having that extra price work toward increasing their own supplies within their country, as would be the effect in our country.

So what we are doing by putting a clamp on energy exploration in the United States is that we are really asking for shortages and longer lines or we are asking for more imports of high-cost foreign oil. Neither of these fills the desire of the people of this country. Neither of these guarantees the national security of this Nation. Neither of these strengthens the basic economy and provides jobs and a higher standard of living.

So, Mr. President, I certainly agree with the distinguished chairman that it should be a bipartisan effort, that it should be a cooperative effort, and that

we should address the entire problem and fight the battle with both hands, not just in cutting back on consumption but in adding to the ability to produce as well.

I am convinced that we can do this; for example, with respect to natural gas. The price that is being paid today on the long-term contracts averages about 25 to 28 cents a thousand cubic feet, and with the deregulation of new gas provision, this would continue. If we equate this price with that of new oil, this would amount to about $1.50 to $1.68 a barrel, which under no such circumstances could be sufficient to bring on continuing supplies to replace those which are produced. Yet, this is the kind of policy under which we are now operating. It is a no-win policy. There is no way by which we can work out of the shortage situation we are in.

Simply to guarantee rationing and to guarantee allocation and to guarantee shortages is to guarantee that we are going to be even more reliant on the Arab countries and that we are going to be less able to handle our own future, to have the knowledge that we have sufficient supplies to keep this country strong.

So, Mr. President, I hope that as negotiations take place between the President and the chairman and others regarding this bill, there will be a desire by both sides for a cooperative bipartisan basis to strengthen this Nation's economy and to strengthen this Nation's ability to provide jobs, to strengthen our ability to be strong in national security by having sufficient energy.

Mr. President, I yield the floor.

(At this point Mr. STEVENSON assumed the Chair.)

Mr. RANDOLPH. Mr. President, I have listened with intense interest to Senator from Oklahoma. I wish to invite attention to certain provisions that are inherent in the pending amendment which he may have overlooked. Perhaps a clarification of his thinking and mine might be helpful for the record.

Looking to the longer term energy picture, it is necessary that we assure the exploration for and the production of new domestic petroleum supplies. This vital effort must not be constrained from a lack of availability of equipment and materials. Thus, the Federal Energy Administrator is authorized in section 105 of this amendment to assure the availability of such supplies for these purposes during periods of shortages.

This provision will provide industry with access to the mining equipment and supplies essential for expansion of coal production as well as the tubular goods and drilling rigs required for the exploration and development of new domestic oil and gas supplies.

I would appreciate comment from my able colleague, who understands this subject, on the points I am making.

Mr. BARTLETT. I thank my distinguished colleague from West Virginia for this opportunity. I think my distinguished colleague has brought to the attention of Members of this body on numerous occasions the problems that exist in his own State with inadequate supplies of natural gas for industry. I think this shows very clearly that the controls that have existed for 20 years in the natural gas industry have so stifled that industry that it has not been able to keep up with demand. Yet, today, I was, in my remarks, Mr. President, expressing the great desire that we address this problem that the Senator from West Virginia has been concerned about for so long, to deregulate natural gas, new natural gas.

I brought out that the present price of interstate gas shipped to the east coast is about 25 to 28 cents 1,000 cubic feet, or, on an equivalent British thermal unit basis to crude oil, about $1.50 to $1.68.

I know the distinguished Senator from West Virginia knows that this would not bring about additional drilling of gas. It cannot be done at present prices. Of course, this is why we have not had sufficient development.

I know that the distinguished Senator is pointing out that the bill calls for sufficient rigs for sufficient activity to take place. The Natural Gas Act and the powers that the Federal Power Commission has given it have very definitely conveyed to them the charge for them to provide sufficient quantities of energy. But it has not worked. The controls do not work.

I should like to ask my distinguished colleague a question: Why is it that the one industry which has its products in shorter supply—referring to the oil and gas industry—and which industry is most important to the national economy at the present time, and which industry is most important to all other industries, why it would be singled out to exist under price controls; and why my distinguished friend would think this industry is the only industry, as it is in short supply, is the one that would do well with price controls, when he does not recommend price controls for timber, manufacturing, or any other industry?

Mr. RANDOLPH. Mr. President, in response to my colleague from Oklahoma, I wish the record to note that I am one of the Members of the Senate who voted last year for the decontrol of new natural gas as distinguished from all gas. I might be brought to that point.

In reference to deregulation of new gas. If it is to be found and then marketed, it will be necessary to have an increase in price. We must stimulate exploration through incentives of one type or another.

In this connection, within the last week, I think the Federal Power Commission has, if not determined, I think indicated their intention to increase the interstate natural gas price to 50 cents per thousand cubic feet. I am sure that the gentleman from Oklahoma is aware of that situation. There exists within the Federal Power Commission the realization of the need for this action, the very real need. Its urgency increases with each week that passes.

Going from this subject I wish to address my remarks—somewhat briefly, but pointedly—to the situation that Congress finds itself in at the present time.

As we talk about the exploration for and production of natural gas and oil, we have to realize, as my colleague indicated weeks and months ago and this afternoon—this is certainly a risky business. It is a hazardous venture. Those persons who sit behind desks and figure out this and that usually do not fully realize the measure of hazard to investments that is involved.

Certainly I am not for unconscionable prices for oil or gas or coal, or any of these supplies necessary to fuel America. I have fought against them. But I do say, as I indicated in this body many years ago and since, that I do personally, in a degree, understand this subject.

My father was an independent oil and gas producer for many, many years in the State of West Virginia. I worked as a young man in the oil fields. I saw at least eight dry holes in succession drilled in Harrison and Dodridge Counties by Ernest Randolph, my father. I am not talking about some other part of the country; I am talking about in the valleys and on the hillsides of the State of West Virginia. So I know the investment hazards. I know the chance that is taken.

I think that we in this body must not forget this as we attempt to cope with these problems. Certainly we are not called on to make any one industry—the oil industry or the gas industry or the coal industry or any other industry—the so-called whipping boy. Rather we try, in a well-reasoned manner, to come to grips with a situation such as the energy problem that faces us now.

Mr. BARTLETT. Will the Senator yield for one comment?

Mr. RANDOLPH. Yes, I do.

Mr. BARTLETT. Mr. President, I wish to commend the distinguished Senator from West Virginia for his authorship of Senate Resolution 45 in the 92d Congress. This empowered several committees to investigate the shortage situation and to take action and to resolve the problems we had. So he had the foresight to see what was coming.

I, personally, am just sorry that this body and the administrations involved did not provide the answers to the problems that the Senator foresaw at that time, because, if they had been provided earlier, our problems would not be so great today.

I do compliment the Senator on his active role in this area and his continued interest to see that this Nation remains strong in energy.

Mr. RANDOLPH. I appreciate the very generous expression of compliment from my colleague from Oklahoma. I had not thought to speak in terms of what I felt we need. Rather I attempted to do something about it.

Some people overlook the fact that today we have 29 Members of the Senate of the United States—under the resolution that the Senator has just mentioned—who, in eight committees, are attempting to do something about the energy problem facing our country. Actions that should have been taken long ago. I realize that there now are only a few Members of Congress who were here in the middle 1940's when I coauthored the Synthetic Liquid Fuels Act with the Senator from Wyoming Mr. O'Mahoney. At that time, prowling along the east coast and in the New England waters were U-boats. We had a crisis then.

In this country, we seem always to act after the fact. When the troubled waters smooth out, we go back to doing business

as we did, with no thought given to preparing for the future in a world that has grown more complex since the middle 1940's.

What did we do then, after that legislation came into being? We moved forward, not just with pilot projects, but with projects that were large enough to tell the story of what should be done. That was coal gasification. That was the use of shale in the Rocky Mountain States for the development of oil supplies. That was the use of coal for aviation and motor fuel.

Then came that period in the early 1950's when inflation covered America. I speak of no administration by name because it is not my desire to do that. But there, as we entered the 1950's, the financial support we had received in the 1940's was withdrawn. What a sad situation it was. I was not a Member of either the House of Representatives or the Senate during that period, but I was saddened at what I saw was happening.

When I returned to the Congress in November of 1958, almost the first action that I took was to introduce legislation to establish a joint congressional committee to develop a fuels and energy policy for the United States of America. That was in 1959.

Members of Congress on both sides of the aisle in the Senate, where the measure was introduced, as well as in the House of Representatives, who supported the proposal.

I remember as though it were yesterday when I testified in 1961 before the Committee on Interior and Insular Affairs and said:

> Each year that we delay establishment of a national fuels and energy policy for the United States perhaps brings us one year nearer to disaster . . . we become more and more dependent on foreign oil to buttress our national economy and security . . . we are gambling with our country's future.

The situation and conditions of which I spoke then worsened. Yet we as Americans, whether on Capitol Hill, in the administration downtown, within industry, or generally throughout the country, were involved in a Pollyannish attitude. We failed to recognize the critical siutation we faced, which has now become accentuated.

I proposed early in 1971 that the President—the executive branch—work with Congress toward formulation of a comprehensive National Energy Policy. It seemed we could do nothing else than have initiated a joint effort.

I have in my files a letter over the signature of the President of the United States, in which he said in essence that he considered this issue to be a proper matter for concern, and it would be turned over to the Domestic Council—

"What did the Domestic Council do? Nothing whatsover." And up until our colloquy here this afternoon they have done nothing about the energy problem affecting the United States.

It is attitudes such as this that we in part are attempting to cure. Perhaps we are not doing it in ways that all the membership of the Senate could agree upon, but we are coming to the understanding that we have to do something, and do it quickly.

Although I want to say something apart from this subject matter; I do not want in any way to compare Presidents; I have no desire to do that. But I remember in 1933 on the night of March 18—I say this with my friend from Alabama (Mr. ALLEN) sitting here at my left—I remember President Franklin Roosevelt sitting at his desk on the second floor of the White House. There were those of us, young Members of Congress, who had come to Washington at the same time as our President was elected. We came here as doubters who were prone to say, "We cannot do this; we cannot do that."

I can almost see the white in the knuckles of his hands as he pounded his desk and said, "But, gentlemen, do you realize we must act now?"

And we acted. We acted across a broad front. I do not need to enumerate what was done, but we turned this country around.

As I look back I am saddened by what I have seen through the years since then. I speak not as a Democrat nor as a partisan when I bring this to the attention of the Senate here today.

I doubt if any Member of this body has really read and understood what Franklin Roosevelt said in 1939 about the problems of energy. I want the record to reflect these words, which he spoke then:

> Our energy resources are not inexhaustible, yet we are permitting waste in their use and production. . . . It is difficult in the long run to envision a national coal policy, or a national petroleum policy, or a national water power policy without also, in time, a national policy directed toward all of these energy producers—that is, a national energy resources policy.

I doubt that there is anyone else in Congress who remembers those words. I remember them. Over and over again I have repeated them. I have repeated them in this body, in public addresses, and when opportunity occurred, with a typewriter as well.

I do not become excited this afternoon about this matter. Rather I am intensely concerned, because I see here a seeming deterioration within our country of the ability of the Congress, the ability of the administration, the ability of the Government itself to cope with the problems facing our Nation, which are so great that to a real degree our institutions and the people of our country are in danger.

I have said on this floor and I repeat again, crisis after crisis men have raised up in this Nation who could meet such crisis; I would say to the Senator from Oklahoma and the Senator from Alabama. It would be a subject for another occasion if I were to tell how George Washington met the shortage he faced in December of 1776. His men could not even stand before him and answer a muster call. So he called on the Continental Congress for 261 pairs of pants. Laughable? You smile. But that was what he was faced with, that number of men could not face their officers and answer the muster call for lack of pants.

In the diary of one of his closest friends, General Mercer, talking about the staff hospital problems in 1776, at Valley Forge said—

> We have no medicine. We have no food. We have not a bandage fit to be used. We have three blankets.

Three blankets that was all.

Why do I tell that story? It is only to indicate that when we had situations like that people raised up within this Republic, as it began to be formed, who were ready to act.

In the days of Abraham Lincoln—regardless of the existence of the War Between the States and the issues concerned—he said,

> The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.

Why do I talk of Washington and Lincoln and Roosevelt?

It is only to note without any partisanship whatsoever that today we have a multiplicity of timid steps. We have no all-out frontal effort in this matter, which should be the concern of all of the American people. Some of them, I am afraid, do not understand the real urgencies of the matters of which I speak.

I talk this way because over and over again we come back, and we come back again to this subject matter. Then we quibble—and I use the word without any connotation which is meant to be improper—about something within the bill that just does not seem to suit us.

Another year has passed while the hard choices required for the adoption of a national energy policy have been delayed or at least postponed again.

Despite the dramatic consequences of last winter's oil embargo, when the United States was more than 85 percent energy self-sufficient, oil imports continue to increase while domestic production declines. Oil imports are up 15 percent over last year despite a threefold increase in price.

Although voluntary energy conservation initiatives and increased energy costs have reduced petroleum consumption by some 5 percent, the need exists for a national "energy conservation crusade." I advocated this need during the Economic Summit Conference in October.

Meanwhile world oil prices—up 500 percent over 1971—continue the upward inflationary pressures on our economy and those of the world communities. The assets of the oil producing and oil consuming countries alike are being eroded away.

The world's major oil-exporting states are accumulating capital reserves unprecedented in world history—approaching $170 billion by the end of next year. Indeed our economies are interdependent even should we be successful in achieving any substanital degree of energy self-sufficiency.

Clearly the energy crisis is a matter of price and its consequences rather than the quantity of oil available. The solutions will require, first, major energy conservation initiatives by the American consumer; second, the reduction of oil imports; third, the promotion of domes-

tic energy supplies; and fourth, the establishment of Federal and State programs to equitably distribute the inevitable energy shortages that will be experienced for the forseeable future.

The United States is faced with a deepening energy crisis. Future energy shortages threaten Government and industry programs to expand energy supplies which are being delayed and even canceled in the face of inflation and *high interest* rates as well as a general deterioration in our economy. Extraordinary steps will be needed if we are to assure that the likelihoods of millions of citizens will not be unreasonably disrupted by the resultant shortages.

The recent Project Independence report analyzes the perils of the United States present heavy reliance on oil imports. The report also outlines the tough choices that must be resolved by the American people. In the months ahead the Congress will review these choices.

Already it is clear our actions must go beyond the voluntary energy conservation measures that are being advocated by the administration. Tougher measures are going to be required. As consumers all of us must be prepared to accept sacrifices if the problem is to be solved. Present imports of oil at inflated prices are beginning to sap our economic strength and drain our monetary reserves.

Certainly the executive branch must have the tools to cope with another energy emergency as well as to stimulate new domestic energy supplies. These authorities were contained in S. 3267, the Standby Energy Emergency Authorities Act, which was debated in this body on May 8 and 13, 1974. That measure was carefully developed over several months to reflect experience gained during last winter's OPEC oil embargo.

For a variety of reasons, Mr. President, including opposition by the then Nixon administration, Senate action on this measure was discontinued last spring. The bill, S. 3267, was complex in nature and its ramifications were widespread. At the time the legislation was responsive to the current energy problems.

Today, Mr. President, I join Senator HENRY M. JACKSON on an amendment in the nature of a substitute for S. 3267. Amendment No. 2006, the Standby Energy Authorities Act. This measure grants the Administrator of the Federal Energy Administration with discretionary authority to implement mandatory energy conservation programs in order to restrain the U.S. consumption of energy—principally oil consumption from foreign sources.

The amendment also provides contingency planning authority for end-use rationing. This provision is to be employed only when the President determines that an energy shortage exists. The Congress also retains the right to veto within 15 days any proposals by the administration to exercise either the energy conservation or the end-use rationing authorities.

As envisioned, mandatory energy conservation measures would be employed as the first step toward greater energy self-sufficiency. End-use rationing would be instituted only as a last resort, but even then on an equitable basis.

Mr. President, the States have moved ahead and will continue to exercise a major role in our coping with our country's energy problem. In fact, the States can take major credit for keeping the petroleum allocation program afloat during last winter's severe shortages, often filling the vacuum, while the Federal regional program was being organized, and backstopping delayed Federal decisionmaking.

In recognition of the vital functions to be served by State programs, the Congress in establishing the Federal Energy Administration directed in section 20 that special attention be given to the role of State government.

Further recognition of the need for strong State leadership is provided in this amendment to S. 3267, the Standby Energy Authorities Act, which is pending on the Senate's calendar. Provision is made for State energy program and implementation grants and with respect to energy conservation, for State and local exemption from Federal programs, where strong programs exist.

The States must assume major responsibility for striking a balance between the goals of environmental protection and resource development. In reality we are involved in two crises, one involving energy and the other current environmental policies.

The success of a national energy policy will be due largely to the ability of State government to develop regional energy policies. Their ability to take the energy crisis in hand, and match suppliers and users is essential.

It is not enough to speak of national energy self-sufficiency. To the extent practicable, we also must concern ourselves with regional independence.

These provisions do not address the longer term energy supply problems facing our country; these programs are concerned only for equitable distribution of energy shortages.

In recognition of the need to increase domestic energy supplies the amendment contains two major provisions: first, section 106 of the bill authorizes the Federal Energy Administrator to undertake various actions to increase domestic petroleum supplies; and, second, the measure authorizes the FEA Administrator to preferentially allocate limited supplies of materials and equipment to energy production.

This authority—section 106—is intended to provide increased domestic supplies of petroleum over the short term while long-term alternatives are being pursued. Four principal actions are available to the FEA Administrator: First, to require existing oil fields in the private domain to operate at their maximum efficient rates of production; second, to require production in excess of maximum efficient rates from oil fields on lands in which there is a Federal interest; third, to require the consolidation of unitization of individual companies' production from the same oil and gas fields, when on Federal lands, where necessary to meet national security and defense needs; and fourth, to adjust the product mix in domestic refinery operations, in accordance with national needs and priorities.

Looking to the longer term it is necessary that the pending amendment also assure that the exploration for and production of new domestic petroleum supplies is not constrained from a lack of availability of equipment and materials. Thus the Federal Energy Administrator is authorized in section 105 to assure the availability of such supplies for this purpose during periods of equipment or materials shortages. This provision will provide industry with access to the mining equipment and supplies necessary to expand coal production as well as the tubular goods and drilling rigs required for the exploration and development of new domestic oil and gas supplies.

Mr. President, this amendment contains authority in title II for the President to formulate a plan and establish the mechanisms to control and reduce oil imports. This program is supplemented by provisions in title III for the examination and creation of a national strategic reserve system for electric utilities, for industry, and for our country as a whole.

I am aware, Mr. President, that there is some confusion and uncertanty about the extent and possible duration of the energy crisis. However, there is little doubt that an energy crisis does exist and will persist. The fact that these shortages will continue requires that we enact legislation to enable equitable distribution of the available supplies to accommodate regional as well as national needs.

This amendment provides the necessary back-up authorities to cope with anticipated shortages and is so titled the Standby Energy Authorities Act. It provides the mechanisms to accommodate our economy and our way of life to energy shortages in an equitable manner, with minimum disruption to our economy. The provisions are based on experience gained last winter during the embargo.

Senator BARTLETT has directed very plausible arguments to delay the action on this measure: the measure Senator JACKSON and others of the Senate, including myself, have cosponsored. However, further delay would be to ignore the need for the United States to move now and then develop the means to cope with our long-term energy crisis.

I think that the gentleman from Oklahoma can agree with me on this, that there is a necessity for an interim authority to cope with immediately, short-term energy supply interruptions. There is general language in this bill which would provide necessary standby authority.

Now, Mr. President, I am satisfied that this measure achieves that purpose in a very practical way and I would hope for its early enactment.

I supported similar legislation a year

ago, and I understand that Members can disagree.

In conclusion, Mr. President, it is my understanding, and I am only partially informed that the President of the United States, tonight, is expected to address himself to our country's energy problems.

I am not sure that that is to take place, but as I close I want the debate to reflect that the President must realize that decisions on this matter must not be delayed or postponed.

We must come to grips with it in one form or another; hopefully with the cooperation of the administration and the support of the American people.

Mr. BARTLETT. Mr. President, I say to the distinguished Senator from West Virginia that I am very sorry our colleagues did not hear his remarks, particularly when he was reciting some of the leaders of this Nation and the tremendous challenges which they met, they met with action in a very forthright manner.

I am reminded of another problem which faces this country and the world and that is the matter of food shortages. I am so pleased, I would say to my distinguished friend from West Virginia, that this Nation is now gearing up to make every effort to maximize its efforts to provide food, as well as to encourage other nations to do likewise, to provide food for themselves as well as to exchange information so that the existing amounts of food that exist around the world can be better utilized than they have been in the past for emergency use.

But in looking at that problem, which of course the distinguished Senator from West Virginia knows very well requires energy to maximize, I am concerned about approaching this problem and fighting it with only one arm, and that is just cutting back.

I am concerned about this approach with the international cooperation agreement that we have with our friends in Europe, that if we only exchange shortages and have the ability to work on the demand side of the equation, we are not going to be able to face up to the problem directly.

This Congress must tell the people of this country that we are going to provide the sufficient amounts of energy to meet the needs, we are going to cut back on expensive imports, but that we are not going to approach it with one arm behind the back and we are not going to play just into the hands of the Arab countries and other nations and make ourselves more vulnerable to them than we already have.

We are going to bite the bullet. We are going to make every effort to be as strong a nation as we have been in the past, and to provide sufficient energy for this country to employ its people, to guarantee its safety, and to have a high standard of living.

Mr. President, I yield the floor.

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.

TIME LIMITATION AGREEMENT—H.R. 14449

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the bill, H.R. 14449—an act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs—of 1 hour to be equally divided between the assistant majority leader and the distinguished Republican leader or their designees; that there be a time limitation on any amendment thereto of 30 minutes; that there be a time limitation on any debatable motion or appeal in relation thereto of 10 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, during the consideration of H.R. 14449 (Order No. 1225), an act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided, further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from West Virginia (Mr. Robert C. Byrd) and the Senator from Michigan (Mr. Griffin) or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Ordered further, That the vote on final passage of the bill shall occur at 10:30 a.m., Friday, December 13, 1974.

TIME LIMITATION AGREEMENT—S. 1988

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on S. 1988—a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes—of 1 hour, the time to be equally divided between Mr. MAGNUSON and Mr. STEVENS; that there be a time limitation on any amendment of 1 hour; a time limitation on any amendment to an amendment of 30 minutes; a time limitation on any debatable motion or appeal of 10 minutes; and that the agreement be in the usual form.

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

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, on Wednesday, December 11, 1974, during the consideration of S. 1988 (Order No. 1233), a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the author of the amendment in the first degree, and that debate on any debatable motion or appeal shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled by the Senator from Washington (Mr. Magnuson) and the Senator from Alaska (Mr. Stevens): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Ordered further, That no rollcall votes on this bill occur before 3:30 p.m., Wednesday, December 11, 1974.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the leaders or their designees have been recognized under the standing order tomorrow, the Senate proceed to the consideration of S. 1988, and if there be any rollcall votes ordered on amendments to S. 1988 or on final passage thereof, that such votes not occur until the hour of 3:30 p.m., at which time the votes then occur on the amendments in sequence as they are called up before the Senate, and the vote on final passage to occur immediately after the vote on such amendments.

Be it provided further that upon the conclusion of debate on S. 1988, the Senate proceed to the consideration of H.R.

14449, the so-called OEO bill; that a vote on final passage of that bill, if a rollcall vote is ordered, not occur until the hour of 10:30 a.m. on Friday; and, provided further, that votes on amendments to the OEO bill may occur tomorrow at the time of the expiration of any such debate on amendments, and that paragraph 3 of rule XII be waived.

Provided further, that at no later than the hour of 1:30 p.m. tomorrow the Senate resume consideration of the amendment—I believe it is No. 17—the amendment in disagreement, in the conference report on the supplemental appropriations bill and, more specifically, the amendment by Mr. HELMS to the amendmend by Mr. SCOTT and Mr. MANSFIELD; and that the debate ensue for 2 hours.

Following the votes, if there be such, on the amendments to S. 1988 and the final passage of S. 1988—immediately following those votes—a vote will occur on a motion which will be made by the distinguished Senator from Alabama (Mr. ALLEN) to table the amendment by Mr. SCOTT, which motion, if it carries, would carry with it not only the amendment by Mr. SCOTT but also the amendment by Mr. HELMS; that if that tabling motion by Mr. ALLEN fails, there be 30 minutes for debate on the amendment by Mr. HELMS, to be divided between Mr. HELMS and the distinguished Republican leader, and that a rollcall vote then occur on that amendment; provided further, that if the vote on the Helms amendment fails, there be 30 minutes of debate on an amendment to the Scott amendment to be offered by Mr. BEALL, and that at the conclusion of that 30 minutes a vote occur on the Beall amendment.

Now, I believe I have covered everything.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. My senior colleague has been most patient.

Mr. HUGH SCOTT. Will the Senator yield briefly and will the Senator indulge me briefly to clarify something?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. Does the distinguished acting majority leader have a program for Saturday?

PROGRAM FOR SATURDAY, DECEMBER 14, 1974

TIME LIMITATION AGREEMENT—NOMINATION OF MELVIN A. CONANT TO BE AN ASSISTANT ADMINISTRATOR OF FEA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that there be a 1-hour time limitation on the nomination of Mr. Melvin A. Conant of New York to be an assistant administrator of the Federal Energy Administration.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the time on that nomination be equally divided between the assistant majority leader and the distinguished Republican leader or their designees; and I ask further, as in executive session, that on Saturday morning immediately after the leaders or their designees have been recognized under the standing order the Senate go into executive session for the consideration of the nomination of Mr. Melvin A. Conant.

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

Mr. HUGH SCOTT. One hour of debate.

Mr. ROBERT C. BYRD. Yes, I thank the Chair.

Now, responding to the distinguished Republican leader, this means that on Saturday the Senate will convene at 9 a.m. After the leaders or their designees have been recognized under the standing order, there will be an hour of debate on the nomination of Mr. Conant. There will be a rollcall vote on that nomination. I have been asked by Mr. METZENBAUM and others to assure them that there would be a rollcall vote on that nomination. So this means there will be a rollcall vote somewhere around 10 o'clock or 10:15 a.m. on Saturday on that nomination.

Mr. President, I ask unanimous consent that upon the disposition of the nomination of Mr. Conant, the Senate resume consideration of legislative business.

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

Mr. ROBERT C. BYRD. Now, I would say further to the distinguished Republican leader that the way things are shaping up I think there will be other votes on Saturday.

It would appear at this time that the military construction appropriation bill will probably come along about that time. There is a strip mining conference report which will be coming over from the House. There is the public service employment legislation which I hope can be disposed of before Saturday. There is the unemployment compensation extension which will come along any day.

In short, I would say that we will have a pretty full platter on Saturday. We already have assurance of at least one rollcall vote on Saturday.

Mr. HUGH SCOTT. So that as I understand the distinguished acting majority leader, there is no certainty as to the length of the session, there will be a number of matters considered, which he has mentioned, and possibly other matters and, therefore, the attendance of Senators is expected.

Mr. ROBERT C. BYRD. Yes, and I am indebted to the distinguished Republican leader for raising the question at this time because with only 1 week to go, following this week, and with the number of conference reports and controversial bills and with the trade bill backing up all of these things, it is absolutely necessary that the Senate meet this Saturday. Hopefully by its meeting this Saturday and meeting early and late on all of the other days excluding Sunday, between today and the following Saturday—hopefully, again I say—the Senate may be able to complete its work by the close of business Friday the 20th—hopefully, I repeat.

Mr. HUGH SCOTT. I would hope so, but there are difficulties we all must understand, at times we are requested to postpone matters because of the schedules of various Senators, and I hope the Senators will arrange their schedules from now to adjournment so that they will not feel compelled to ask that the business of the Senate stop dead for the convenience of any individual, much as we would like to accommodate them.

Mr. ROBERT C. BYRD. I share that hope, may I say.

In the whip notices, I am alerting Senators on this side of the aisle to the fact that there will be rollcall votes daily, that "holds" on bills and nominations can no longer be honored, and that the leadership is hoping for the understanding and cooperation of all Senators in the effort to complete our workload, which is rather heavy as yet, by no later than the close of business next Friday, a week, December 20.

I would also like to echo what the distinguished Republican leader has said, to wit, that it puts the leadership on both sides of the aisle in a very difficult position at this stage for any Senator to ask that the work of the Senate be held up in order that his own convenience might be accommodated.

Mr. HUGH SCOTT. Well, I thank the distinguished acting majority leader.

VOTE ON MOTION TO INVOKE CLOTURE TOMORROW VITIATED

Mr. ROBERT C. BYRD. I ask unanimous consent that the vote on the motion to invoke cloture tomorrow be vitiated.

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

AUTHORIZATION FOR THE SECRETARY OF THE SENATE, THE PRESIDENT PRO TEMPORE, OR THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives during the adjournment over until tomorrow, and that the President pro tempore and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions during such adjournment.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet during the session of the Senate tomorrow, December 11,

for the purpose of taking testimony on rules and regulations for the administration of the Johnson-O'Malley program, and along with the Joint Committee on Atomic Energy be authorized to meet for a joint hearing on the nomination of Dr. Robert Seamans. Further, that the Government Operations Committee have permission to meet tomorrow, December 11, to conduct a hearing on a GAO report; and that the Commerce Committee have permission to meet on Wednesday, December 11. Also, that the Judiciary Committee have permission to meet on Thursday, December 12 to consider nominations on Federal judgeships which were announced in the RECORD of December 5, and, further, that the Budget Committee have permission to meet on Wednesday, December 11, Thursday, December 12, and Friday, December 13.

I also ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Thursday, December 12, on nominations and treaties, and that the Committee on Banking, Housing and Urban Affairs be permitted to meet tomorrow, December 11, on certain legislation and a nomination.

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 second 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.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of S. 1988, the so-called 200-mile limit bill. There is a time agreement on that bill. Any votes on amendments thereto, or any vote on final passage of that bill, will not occur prior to the hour of 3:30 p.m. tomorrow.

After the time for debate on the bill and amendments thereto has expired, the Senate tomorrow will proceed to the consideration of H.R. 14449, the so-called OEO bill. There is a time agreement on that bill also. Rollcall votes are expected to occur on amendments to that bill tomorrow. I should make it clear that if any rollcall votes are ordered on amendments to the OEO bill, there is no order to the effect that they will be delayed until 3:30. Rollcall votes on such amendments may occur when the time on any such amendments expires. The final vote on H.R. 14449 will not occur until the hour of 10:30 a.m. on Friday.

At no later than the hour of 1:30 p.m. tomorrow, the Senate will resume consideration of the amendment by Mr. HELMS to the amendment by Mr. HUGH SCOTT to the amendment No. 17 in disagreement, supplemental appropriations bill. At the conclusion of 2 hours of debate, to wit, 3:30, the vote will occur then on the bill S. 1988 and amendments thereto.

Immediately following those votes, which will be stacked up back to back if there be any such votes, a vote will occur on a motion by Mr. ALLEN to table the amendment by Mr. HUGH SCOTT. If that vote fails, there will be 30 minutes for debate on the amendment by Mr. HELMS, and a vote will then occur on that amendment.

If that vote fails, there will be 30 minutes on an amendment by Mr. BEALL, after which a vote will occur on the amendment by Mr. BEALL. What happens thereafter is unclear at the present moment, but suffice it to say that several rollcall votes are expected tomorrow.

ADJOURNMENT TO 9 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 previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 5:58 p.m., the Senate adjourned until tomorrow, Wednesday, December 11, 1974, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 10, 1974:

VICE PRESIDENT OF THE UNITED STATES

Pursuant to the provisions of section 2 of the 25th amendment to the Constitution of the United States, Nelson A. Rockefeller, of New York, to be the Vice President of the United States.

EXTENSIONS OF REMARKS

BLACKBIRDS ARE EVERYONE'S PROBLEM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 9, 1974

Mr. JONES of Tennessee. Mr. Speaker, at the Milan Army Ammunition Plant in Milan, Tenn., several million blackbirds, virtually all starlings, are roosting for the winter once again.

At dusk the birds literally darken the sky because of their large numbers. It is needless to say that those birds constitute a genuine pestilence to the people of the area, especially the farmers, yet they are unable to protect themselves because the roosts are located on the Army's property.

Following is the lead item on the front page of the Milan Mirror of December 4, 1974.

While the bureaucracy of environmentalists fumes in Washington, delaying any action on getting rid of the pests, millions, yes millions, of blackbirds are presently eating up tons of precious foodstuffs each day, spreading disease, and spotting automobiles.

In the Terry Community, just east of Area Q at Milan Arsenal, the plague of birds is literally eating up F. M. Tidwell's 15 acres of milo.

It's too muddy for him to harvest his crop; so the fat, pudgy birds are doing it for him, nonprofit of course. "If it doesn't dry up soon so I can get my combine in the field, there won't be anything left for me," he said.

Mr. Tidwell has used tinfoil piepan reflectors and other devices to scare the birds away from his field, but nothing works. "They (the birds) aren't even scared of me," he said. "You can drive right up to them."

Billy Allison of Atwood, reportedly is having the same trouble with a crop of winter wheat.

In the Salem Community, Denton Fly said the birds ate at least 500 bushels of corn on the old Jones Farm before it could be harvested. At $3.50 per bushel, those birds become mighty expensive.

Last year, hundreds of hogs died in the Milan area from intestinal disorders after birds flocks had descended on feedlots—bold enough to compete with the larger beasts—for grain.

Blackbirds are everyone's problem.

Besides, the disease potential to man and animal, they are cutting into the nation's food supply, greatly reducing the yield of grains—which eventually leads to higher prices on the food table.

With all the current outcry of world food shortages, it seems ironic that a government would point a finger to farmers for more food production and at the same time permit a bunch of bird biddies to perpetuate an eternal flow of masses of dirty, smelly, feed-stealing, lousy fouls (Fowls) that are not helping man or animal—just the opposite. They are a detriment to the well-being of man and animal.

It is time everyone became involved. Because one way or another the birds will cost you too.

If they don't make you sick with some illness; if they don't cause your grocery bill to become higher; then ultimately, your car will be next.

We commend the army for their efforts to thin out the pesky devils. They have the support of the local community.

We pity the others who are totally ignorant of the problem, and to each of them we beseech a towsackful of birds for Christmas. (BP)"

I regret that the CONGRESSIONAL RECORD cannot reproduce the two photos which accompanied these remarks. In one is shown a typical ear of corn from a nearby farm. At least 75 percent of the kernels have been eaten by the birds. The owner estimates his losses to the birds this year at 500 bushels of corn.

The other photo shows a milo field which can hardly be seen because of the blur of blackbirds. This 15-acre milo field will probably be lost entirely to the birds because the weather has delayed harvesting.

Mr. Speaker, I submit that the most overlooked species in the environment of the Milan, Tenn., area is man. To protect the pestilence at the expense of man is not only foolish, but costly and haz-