ficially designated a Communist front, and predecessor of the Progressive Citizens of America).

(5) Vol. 3, Nos. 1 & 2, of the Bulletin of People's Songs (officially designated a Communist front) named Faulk as one who had sent greetings to People's Songs on its second anniversary.

(6) "Johnny Faulk" was listed in a circular as an entertainer or speaker (with Paul Robeson and two others) to appear at "Spotlight on Wallace" to be held in Room 200 of the Jefferson School of Social Science on February 16, 1948. The Jefferson School has been found by the Federal Government to be what it is, the official training school of the Communist conspiracy in New York.

(7) "John H. Faulk" was a U.S. Sponsor of the American Continental Congress for Peace, staged in Mexico City, September 5–10, 1949, as shown by the official "call." The Congress was later described by the HUAC as "another phase in the Communist world 'peace' campaign, aimed at consolidating anti-American forces throughout the Western Hemisphere."

Faulk did not sue the Communist Party's newspaper for taking his name in vain. Instead he sued those who compiled the Communist press statements about him.

John Henry Faulk continues to spread his intellectual dishonesty to the American public. In 1963, he was a guest speaker for the Communist front, Emergency Civil Liberties Committee, at their annual dinner, December 13, 1963. In 1964, he joined in an ECLC-sponsored letter defending those members of the Maoist Communist Progressive Labor Party, PLP, who had made a trip to Communist Cuba in violation of State Department regulations.

While John Henry Faulk screams about the "blacklist," he and his friends continue to blacklist those who oppose their leftist political philosophy.

ETHNIC UNITS MAKE NATION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1976

Mr. DERWINSKI. Mr. Speaker, I have reported consistently to the Members my belief that our Bicentennial commemoration was the tremendous success it was because it was principally organized, directed and observed at the grassroots level across the country. Therefore, I am pleased to insert into the RECORD a report in the DesPlaines Valley News serving suburban Cook County on a recent Bicentennial picnic held in the Village of Summit, Ill., under the auspices of that community's Bicentennial commission. It typifies the grassroots vitality of this year's Bicentennial commemorations.

The material follows:

ETHNIC UNITS MAKE NATION

(By Harry Sklenar)

Summit Bicentennial Commission completed a rather successful program of activities to mark the nation's birthday, but the Sunday ethnic community picnic was well designed to portray the various cultures that have merged to make our nation unique.

It seems that the only local ethnic group missing was the Dutch who were among the first settlers of this area. It is regretted that the old Dutch Reformed Church which once was the center of village local social and religious affairs situated in Chicago near the shopping center will be demolished to make way for stores. The Germans, Polish and Irish ethnic groups soon followed that first wave of emigration when the local area was opened to settlement with canal building shortly after the Revolutionary War.

Ray Douglas of the Tribe of Delavan was attired in his colorful Indian costume, representing the first occupants of the area.

Displays of the various community ethnic groups attracted a large number of persons. There were the Russian, the Mexican, the Japanese, the Czechoslovakian, the Polish, the Negro, the German beer garden, and the Irish display.

Entertainment provided by the various ethnic units was enjoyed by all who attended.

Handicraft displays were exhibited by Chester Stelman and a sea shell art exhibit by John Mical.

Attired in their native costumes, the ethnic entertainers were a colorful sight.

Somehow, a few shy ethnic units such as the new Yugoslav and Punjab groups failed to attend.

The program began with the St. Joseph's church choir under the direction of Sister Avertine and James Baricovich, and concluded with a Polka dance exhibition with some audience participation.

Together the various ethnic groups demonstrated that the community has a wide variety of nationalities who are now Americans cooperatively making the United States the envy of every foreign nation.

Perhaps the community ethnic picnic like the township affair should become an annual event to remind all area residents that together we are a nation willing to work together.

SENATE—*Tuesday, September 21, 1976*

The Senate met at 11 a.m. and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Reverend Robert K. Wilson, Chaplain to the Corps of Cadets, Virginia Military Institute, Lexington, Va., offered the following prayer:

Eternal God, into the calm of Thy presence, we lift for a moment our restless spirits. Let quietness and responsiveness open doors of insight and inspiration.

Speak to us in conscience that the words of our mouths may be free from duplicity and evasion—that we may be honest with ourselves and our colleagues.

Speak to us in memory which so often takes us by the hand and leads us safely through the uncertainties and temptations of the moment.

Speak to us in our hopes and ideals that we may seek for and find a more excellent way.

Speak to our wills as we wrestle with decisions which affect the whole human family.

Speak to us through the needs of our constituency, and forgive us that sometimes we are fatigued by their needs, worn out by their sheer numbers and the insistence of their demands.

Restore our confidence that justice can conquer greed; that the structures of peace are stronger than the forces of war; that love is mightier than hate; that life is mightier than death.

In this renewed faith may harmony prevail among us as we go forward together as soldiers of the common good. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 21, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY 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, September 20, 1976, be dispensed with.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures that have been cleared for action, by unanimous consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1181, 1193, and 1196.

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

DEPRIVATION OF EMPLOYMENT ON ACCOUNT OF POLITICAL CONTRIBUTIONS

The Senate proceeded to consider the bill (H.R. 11722) to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, beginning with line 7, strike out through page 2, line 21, and insert in lieu thereof:

"(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person

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to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

"(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

"(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

On page 4, line 3, strike "(1)" and insert "(A)";

On page 4, line 4, strike "(2)" and insert "(B)";

On page 4, line 6, strike "(3)" and insert "(C)";

On page 4, line 8, strike "(4)" and insert "(D)";

On page 4, line 10, strike "(5)" and insert "(E)";

On page 5, line 10, strike "Purposes on" and insert "purposes, on".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1245), explaining the purposes of the measure.

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

PURPOSE OF THE AMENDMENT

H.R. 11722 is designed and intended to protect public servants, prospective public servants, and certain other beneficiaries of government programs from extortionate political kickback practices where the employment or benefit is made possible in whole or in part by an Act of Congress. The purpose of the first amendment is to simplify subsection (a) of the proposed new section 601 of title 18 of the United States Code and to remove an ambiguity with respect to the scope of the offense to make it clear that completion of the crime is not conditioned upon the victim's refusal to comply with the extortionate demand for payment.[1] The other amendments are to correct drafting errors.

GENERAL STATEMENT

There have been many incidents, in the past, of major political parties obtaining funds using the "lug", a method of extracting a portion of an employees wages. The evidence received by the Subcommittee on Criminal Justice of the House Committee on the Judiciary indicated that in Indiana the employees are expected to contribute 2 percent of their gross salary to the political party in control at any given time.[2] In some areas of Indiana, the local party organization may collect a 1 percent lug in addition to the State party's 2 percent.[3] The Office of Federal Elections of the General Accounting Office made an audit and a field investigation of one State Central Committee covering the period from April 8 to December 31, 1972, and found that, during 1972, patronage contributions to this Committee aggregated approximately $375,000, or 46 percent of the total contributions received.[4]

The employees who are subjected to this form of political patronage harassment are threatened with termination if they do not make their 2 percent payments. If the threats fail, the employee may actually be fired.[5]

At present, there are two statutes directed at protecting federally-funded employment and programs from partisan favoritism. One is 18 U.S.C. 600, which makes it a crime to promise employment or other benefits made possible in whole or in part by an Act of Congress, on account of a person's political activity.

The other statute is 18 U.S.C. 601, It provides:

"Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

The "work relief and relief purposes" limitation makes section 601 much narrower than section 600. For example, if A goes to B, who is already employed by the Federally-funded highways construction program, and threatens to fire him if he does not contribute to A's party, the Justice Department cannot prosecute A. The reason is that section 601 is inapplicable because the Federal funds are not being used for "work relief and relief purposes." Section 601 must be expanded to include more than "work relief purposes" situations, if it is to provide adequate criminal sanctions.

DEPARTMENT OF JUSTICE POSITION

The Department of Justice supports H.R. 11722 with the Senate amendment. In a letter dated July 1, 1976, to Chairman Eastland, the Assistant Attorney General for Legislative Affairs states:

"The Department of Justice supports the enactment of legislation along the lines of H.R. 11722, for we consider that the United States has an obligation to insure that none of the jobs and benefits which are funded in whole or in part by federal appropriations is the subject of discrimination on the basis of whether the victim makes a political contribution. An additional justification for a federal proscription in this area is the fact that when abuses of this nature arise, they are frequently locally sanctioned, either in law or customs, so that federal intervention is often the only means of halting the extortionate practice.

"While we generally favor the enactment of H.R. 11722, we do note that the legislation is somewhat awkwardly drafted and is subject, through the use of the phrase 'on account of such person's refusing to make a contribution', to the unfortunate construction that the criminal penalty is applicable only in the case where the victim is courageous enough to 'refuse' to make the demanded contribution. Clearly, the conduct of the defendant in threatening the victim with loss of employment or a benefit, or in depriving the victim of such employment or benefit, if he does not make a political contribution merits punishment irrespective of whether the victim surrenders to the extortion. Moreover, the manner of defining the three categories of persons falling within the ambit of the proposed statute seems unduly verbose.

"Although making technical changes of this kind would not alter the scope of the proposal, it would, we believe, substantially improve its clarity and thus would serve the interests both of those persons whose conduct will be regulated by the legislation, as well as prosecutors, judges and jurors, who must interpret it in legal proceedings. The Department, if desired by your Committee, would be more than willing to cooperate with its members and staff in seeking to arrive at a more technically perfect version of the legislation.

"If such amendments as suggested above were made to H.R. 11722, the Department of Justice would strongly favor its prompt enactment."

[1] The House usage of the phrase "on account of such person's refusing to make a contribution" (page 2, lines 16-17) could be construed to limit the offense to the unsuccessful extortion.

[2] See statement of Representative J. Edward Roush in Hearing on Legislation Relating to Deprivation of Employment on Account of Political Contribution Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 94th Congress, 1st Session, October 21, 1975, at 9 (hereinafter cited as "House Hearing").

[3] See House Hearing at 33, 73-77 (letter of Murrel Meadows).

[4] See House Hearing, at 10-11 (testimony of J. Edward Roush).

[5] See House Hearing, at 73.

BILL PASSED OVER

The bill (S. 798) to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures, was announced as next in order.

Mr. ALLEN. Mr. President, will the Senator agree that this bill be passed over temporarily, so that I may have an opportunity to look at it?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I withdraw the request on that bill.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

REHABILITATION AND DEVELOPMENTAL DISABILITIES LEGISLATION

The resolution (S. Res. 544) authorizing the printing of additional copies of the committee print entitled "Rehabilitation and Developmental Disabilities Legislation," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare one thousand nine hundred additional copies of its committee print of the current session entitled "Rehabilitation and Developmental Disabilities Legislation".

BILLS PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two bills which ran into a brier patch on yesterday be transferred to the calendar, under "Subjects on the Table," and they are as follows: H.R. 3035 and H.R. 12934.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice

President, appoints the Senator from Virginia (Mr. WILLIAM L. SCOTT) to attend the annual meetings of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development, to be held in Manila, Philippines, October 4–8, 1976.

ORDER OF BUSINESS

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

A CRISIS OF HONOR

Mr. BARTLETT. Mr. President, on August 30, 1976, Mr. Fred Ruth of my staff traveled to the U.S. Military Academy at West Point to gather firsthand evidence on the depth and breadth of the controversy surrounding violations of the honor code. Mr. Ruth has reported to me on his findings, and I ask that a copy of that report be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BARTLETT. Mr. President, this report and the previous information and evidence available to us on the West Point cheating controversy confirms some previous conclusions and leads to additional conclusions. I will now summarize briefly these tentative conclusions, using sparingly supportive facts and reasons.

Our foremost conclusion must be that a crisis of honor has existed and continues to exist at West Point. I do not consider it coincidental that this crisis of honor occurred at West Point during a period when our Nation seemed to suffer a crisis of honor and integrity at the highest levels of our society. While this certainly does not excuse the problems at West Point it may help to understand them. Hopefully it will remind us of the importance of tempering the character of our youth with a sense of personal honesty and integrity, and of devising a workable system under which this may again be done at West Point.

Our first step toward resolving this crisis of honor at West Point is to acknowledge that it exists. This cannot be done by maintaining that "the honor system is alive and healthy" as some have said, and proposing minor changes in the existing system, such as disallowing future take-home exams, as the one in EE 304 on which so much cheating occurred.

We are forced to this conclusion first because of the pervasiveness of honor code violations. On the EE 304 exam 103 cadets have been found guilty of cheating, and 49 cadets resigned rather than face officer review boards for a total of 152 honor casualties. Cheating on examinations had apparently become so common that peer pressure, which should be influential in the enforcement of the honor code, instead worked to encourage violations of the code.

Second, over 500 additional cadets have allegedly violated the honor system according to affidavits signed by 65 cadets.

Finally, the total disregard for the nontoleration clause of the honor code is conclusive evidence that the honor system has failed. Surely we have learned that no code, no convention, no rule or law can endure without the consent and support of those who are governed by it. Explicit in that support is not only willingness to observe the law, but intolerance of those who violate it. An honor system cannot be forced on a group and expected to work.

Many student honor systems began at the insistence of students outraged with massive cheating and lack of trust which accompany many proctorial systems. The college and university would grant approval on the condition that the students would assume full responsibility. This obviously means that the overwhelming majority of students would be willing to report fellow students who violate the honor code.

For a code or law to endure, those who are governed by it must also be certain that the system and the sanctions provided for its enforcement are fair and just. This has clearly not been the case with the honor system at West Point, and in particular, its single sanction of dismissal from the Academy for any honor code violation.

I disagree with those who say the honor system is absolute and that violations must be dealt with absolutely by dismissal. Certainly honor, just as truth, is absolute. But the structure under which we administer a code of honor and judge violations of that code must be flexible enough to account for the frailty of human nature, and the varying degrees by which we all fall victim to that frailty.

Recognizing that the honor system at West Point has failed to command the support of the cadets, West Point officials must look to them to devise a totally new system. In doing so, they should consider the possibility that a total suspension of the present system, replaced by a proctorial system, might produce the most favorable atmosphere in which to meet this challenge. Beginning anew to construct the framework under which the honor code may be administered, the cadets at West Point may very well question the scope of a new honor system—whether that system is reasonably applicable only or primarily to academic matters.

It is going to be most difficult for the West Point officers and cadets to convince the American public that, after not one cadet reported another in at least 152 violations of the honor code, all of a sudden, the cadets will report their friends who cheat. In order for the cadets themselves to know that they will report violations, they must believe it is a fair and just system and do want an honor system.

One advantage of going to a proctorial system is that it puts the responsibility on the cadets to develop their own system, rather than accept the current one, which clearly is not a cadet system. A short experience under the proctorial system will help stimulate the desire for and the development of a sound honor system that will have overwhelming cadet support.

In the meantime, serious questions remain regarding the manner in which violations of the present honor system are investigated and penalized. Intervention by Secretary of the Army Hoffman, and the creation of the "Blue Ribbon" Committee to investigate honor code violations can help to resolve this crisis. However, these efforts do not relieve the Committee on Armed Services of its responsibility in this matter. I believe the investigation by the Subcommittee on Manpower and Personnel is warranted, should continue, and that such an investigation would complement the efforts of the Department of the Army and the independent investigative committee.

As we work together to assess the present problems at West Point, we must recognize that our course of action in addressing current violations must be fair and just. Violations must be judged not by the standards of a system of the past, which has clearly failed, but by the standards we know are essential to any successful system of the future. The single sanction provided for honor violations has been part of the problem in the past. We cannot look to it for a solution, either to today's dilemma or tomorrow's challenge of establishing a new workable honor system.

Only when we have admitted that the present honor system has failed, only when we have investigated fully the violations of that system and proceeded on a course of action that is fair and just, and only when we have placed the matter of a new honor system in the hands of those who will be governed by it because they respect and want it, will we have resolved the crisis of honor at West Point.

Mr. President, I also ask unanimous consent to have printed in the RECORD the letter of transmittal to myself from my legislative assistant, Mr. Ruth, and the itinerary of his West Point visit.

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

WASHINGTON, D.C.,
September 14, 1976.

Senator DEWEY F. BARTLETT,
Russell Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Pursuant to your request I visited the U.S. Military Academy at West Point during the period August 30 through September 2. The purpose of my visit was to discuss relevant matters with various individuals relating to the problems of the current honor "scandal" at the Academy. I also reviewed the cadet affidavits containing allegations of cadet honor violations in order to ascertain the pervasiveness of honor violations among cadets at the Academy.

Attached is a report of my visit and a copy of my itinerary.

Sincerely,

FRED A. RUTH,
Legislative Assistant to Dewey F. Bartlett, U.S. Senate.

ITINERARY, WEST POINT VISIT

30 Aug:
2200, Arrive West Point.
31 Aug:
0845, Office Call Commandant.
0930, Office Call Superintendent.

1000, Discussions with cadets from 1st, 2nd, 3rd class (total of 9 cadets not involved in EE304).

1115, Discussions with selected officers (company tacs—one each regiment).

1215, Lunch with cadets (Mr. Swanson).

1300, Discussions with Honor Committee representatives (5).

1400, Discussions with defense attorneys, one permanent party and one temporary.

1500–1630, Discussions with Father Curley, Catholic chaplain.

1700–1830, Cadet Miller, Cadet Brigade Commander.

1930–2100, Class of '77 meeting with Commandant.

1 Sept:

0900, Discussions with cadets "found" of honor violation in connection with EE 304 take-home examination.

0945, Chaplain Richard Camp, Protestant Chaplain.

1015, Col. Joe Beasley, History Department.

1115–1730, Capt. Dom Thomas; Review cadet affidavits.

2 Sept:

0830–0900, Office Call, Commandant.

0900–1000, Office Call, Superintendent.

EXHIBIT 1

WEST POINT HONOR

On August 30, 1976, I went to West Point, New York, in order to talk with Academy officials, Cadets and other individuals about the current honor problem that has arisen at the U.S. Military Academy. The interviews and discussions took place over a three-day period during which time I was able to form general impressions about the problem at the Academy.

I. THE HONOR VIOLATIONS

After talking with individual Cadets, members of the defense counsel team, and a cursory review of affidavits containing allegations of honor violations prepared by Cadets, my impression is that the current honor "scandal" was not the result of a well-organized group of "cheaters", but rather was an incident that evolved independently among various Cadets.

Cadets who have not been involved in matters relating to honor violations expressed genuine surprise at the extent of the honor violations that have been reported to have occurred. However, Cadets who have completed affidavits in which they allege to have knowledge of honor violations paint a different picture. Many Cadets were named in the affidavits as having violated the honor code at West Point to some degree or other. I shall add that many of the affidavits I reviewed would have no value in any type of legal proceeding, because they were based on "hearsay". However, the affidavits are sufficient to show the extent or pervasiveness of honor violations that have occurred. To the best of my knowledge the following data is the most up-to-date available:

687 Allegations of *total* honor violators.

464 Allegations of total honor violators in Class of '77.

296 EE 304 Violation and other.

168 Violations other than EE 304.

135 Allegations of honor violations in Class of '76.

43 Allegations of honor violations in Class of '78.

11 Allegations of honor violations in Class of '79.

15 Allegations of honor violations in Class of '74.

19 Allegations of honor violations in Class of '75.

104 Cadets had resigned as of 9/9/76.

It can be concluded from this data that there have been many violations of the honor code at West Point; further, it can be inferred that many other violations have occurred also, but simply have not been reported.

II. WEAKNESSES IN THE CURRENT HONOR SYSTEM

A. The "toleration clause"

The "toleration clause" of the honor code at West Point has been alluded to as being the "strength" of the code. However, the toleration clause is Janus-faced in my opinion, because it is also the weakness in the code under the present honor system. This conclusion is based on discussions I had with Cadets wherein there was concern expressed about the conflict between a Cadet's individual moral judgment and the honor code and system. The obvious best example of this conflict is illustrated by the example of a Cadet refusing to report a fellow Cadet (a friend) for a minor infraction of the honor code knowing that the only penalty for that violation is expulsion from the Academy.

Therefore, in the sense that the system is rigid; i.e., it provides for no flexibility, it is weak.

B. The "double standard"

Most of the violations that have been reported in the current honor "scandal" involved Cadets who had served in an active army program (field training) for a summer. During that experience Cadets were able to observe first-hand that soldiers who violated army regulations or laws could be dealt with by any number of punishments from a simple oral reprimand for a minor violation to a court martial for a serious violation, with other punishments between the extremes. While this situation may not be articulated as having validity, it is my opinion that it is a factor, albeit subtle, that has a bearing on a Cadet's attitude toward honor vioaltions.

III. DEFENSE LAWYER'S OBSERVATIONS

A. There is apparently little doubt in the minds of the military defense lawyers that Captain Lincoln and Captain Sharphorn may have had their careers as military officers prejudiced because of their vigorous defense of Cadet clients. I make no judgment on this issue; however it is my understanding that the Secretary of the Army is looking into these allegations.

B. There was concern expressed to me about the shortcomings in the procedures of, and tactics used by, the internal review panels. These are matters which must be addressed by the Secretary of the Army and his legal counsel.

C. Concern was expressed also that the Secretary of the Army's plan to deal with honor violators may suffer from legal deficiencies. This matter is currently pending before the courts, and therefore I shall not address the merits of this allegation.

IV. ACADEMY ACTIONS TAKEN IN RESPONSE TO CURRENT HONOR PROBLEM

A. "Shuffling" of companies—It is apparently the plan to "shuffle" Cadet members of companies among other companies every two years. This action will allegedly help prevent "cliques" from forming and will also allow Cadets to broaden their base of acquaintances and friendships.

B. Collaboration on assignments will be allowed at all times outside the classroom. There will be no more "EE 304" problem type situations.

C. Only essay-type examinations will be given in the classroom. I am uncertain how a course like mathematics will be tested under this plan.

D. Company tactical officers and Cadets alike have been admonished not to put Cadets "on honor" by the use of improper questions.

E. The Cadet Honor Committee is going to present to the Corps of Cadets for referendum the question: Shall the Cadet Honor Committee have the power to recommend punishment other than expulsion for a violation of the honor code?

This question will have to receive a ⅔ vote of the Corps to go into effect.

V. THE SECRETARY OF THE ARMY'S SPECIAL ADVISORY PANEL

In my opinion, this group must make a thorough investigation of the underlying causes of the current honor problem. It must also examine the changes that have been taken by the Academy to treat the problem and determine their efficacy.

Just as important as the investigation and report of the panel will be the willingness of the Secretary of the Army and the Military Academy to implement changes that are recommended. One only needs to observe that the recommendations found in the Buckley Commission Report have been ignored to be concerned that the recommendations forthcoming from the Special Advisory Panel may suffer the same fate.

VI. CONCLUSION

It is my opinion that the likelihood of another outbreak of an honor problem of the same magnitude as that encountered with the EE 304 problem recurring in the near future is remote. This does not mean, however, that all is well. There are basic weaknesses in the honor system which must be corrected if the system is to be strengthened ultimately. The fact that there is weakness in the system is illustrated by the large number of Cadets alleged to have committed honor violations (see I., above).

Within the Academy is an honor system whose purpose should be to mold, develop, and instill a sense of "honor" and "duty" in a Cadet. In order to be efficacious it must naturally be a continuing process. Mistakes will be made during the process, but the goal is still there and can be achieved over a four-year period if a proper degree of flexibility and reasonableness are utilized.

Nonetheless, honor is personal. As Coleridge once said, "Our own heart, and not other men's opinion, forms our true honor".

ADDENDUM No. 1

Since my visit to West Point, a large amount of activity involving cadets has taken place. In order for my report to be complete I have added the following information:

DATA ON EE 304 CASES

Cases referred to Board of Officers	202
Cases completed by Board	154
Cadets "found" of honor violations	103
Cadets exonerated by Boards	52
Cadets resigned prior to Secretary of Army's plan	18
Cases dismissed by Superintendent	**28**
Case pending before Board	1
Cadet separated for reason other than honor	1
"Found" cadets have resigned (total as of 9/15/76)	62
Cadets have taken no action in their cases (resignation or otherwise)	40
Cadets resigned rather than appear before Boards of Officers	49

Mr. BARTLETT. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, does the Senator have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may have control of that 7 minutes, if the Senator will consent.

Mr. BARTLETT. I yield the time to the Senator from West Virginia.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempport. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY)

is recognized for not to exceed 10 minutes.

HEALTH CARE

Mr. KENNEDY. Mr. President, health care should be a right and not a privilege for every American. Long ago we guaranteed a decent education as a matter of right. As a society, we have said a decent education should not depend on whether a family can afford to pay for it. We must assure the same for health care. Health care as a right must be a part of the vision we cherish for our people. Health care is basic to a full life in our free society. The freedom and opportunities we offer every American are hollow promises to those whose minds are darkened or whose limbs are twisted by unnecessary illness or deferred care.

Health care must be a right for all in our society and not merely a privilege for a few. But while they have used these same words—the Nixon/Ford administration has, in fact, denied that health care is a right. Through their refusal to lead, and their active opposition to the positive programs developed and supported by the Congress, the Nixon/Ford administration has denied basic health care to millions of Americans.

The problems we face in health care are evident. Only gross insensitivity to the needs of the people and an absence of commonsense could lead to the health care policies of this administration. Today:

More than 20 to 40 million Americans have no health insurance. These families have no protection against the costs of physician visits and hospital bills and all too often delay getting the care they need for themselves and their children.

More than 2 million families a year incur catastrophic health care costs—costs that can bankrupt, and destroy a family's security for years.

Health care costs continue to take a bigger and bigger bite out of the family budget—last year, health costs rose more than half again as fast as the economy as a whole. Next year, Federal cost of the medicare and medicaid programs will increase more than $5.8 billion—in just 1 year. And these higher costs will provide no new benefits, no additional coverage for our elderly.

And it is getting harder to find a doctor if you live in the country, or the inner city. The situation gets worse year by year. We do not have enough family doctors and pediatricians to serve our Nation and we have too many surgeons.

And we have no assurance of the quality of the health care provided us when we get it in the United States. Fewer than 50 physicians, of more than 300,000 nationwide, lose their licenses each year. This in spite of the fact that even a former president of the American Medical Association admits that perhaps 3 to 4 percent of all physicians—more than 10,000 nationwide—are "bad apples."

Indeed, the list is endless—unnecessary hospital beds, excess surgery, inaccurate laboratory examinations, on and on. The recent investigations of fraud in the medicaid program dramatize many of our problems.

In view of these problems—lack of ability to pay for cure, increasing costs, decreasing availability, erratic quality—any administration sensitive to the needs of the people, and a President concerned with guaranteeing opportunity in a free society, would take some action to set things right.

But President Ford has done nothing. In fact, his actions have been worse than nothing.

The President says that we cannot afford national health insurance. Every Western industrialized nation has NHI—but the United States, the wealthiest nation in the world, cannot afford national health insurance. The Nation that spends the greatest percentage of the greatest per capita GNP in the world for health care cannot afford national health insurance. It is unbelievable.

In fact, not only does the President believe we cannot afford national health insurance, he apparently believes we cannot afford the programs we already have. He proposes, in fact, to cut back medicare and medicaid to bail out the Federal budget, and to retreat from the social gains that we have already made.

The President wants the elderly of America to pay hundreds of millions more out of their own pocket for their health care—in order to save money on medicine. He tells us that he favors catastrophic insurance for the elderly. But his medicare proposals would actually require the vast majority of the elderly to pay more, and would help only 1 in 300. And when the ledger sheet is totaled up, he requires the elderly to pay an additional $500 million a year for health care. This, when the medicare program today pays less than 45 percent of the total health bill for the elderly to start with. This, when the elderly now pay more out of their own pockets today for health care than before medicare was enacted. Inflation is already watering down medicare's benefits—and the President wants to water them down even more.

And what of the poor? What does the President propose to do for low-income Americans? He proposes to wrap up medicaid and 15 other programs in "block grants" for the States. He says this will give States freedom to meet their individual needs. In fact, what these grants would mean is less Federal support for the major industrial States, and reductions over a period of years for all of the States. What it really gives the States is freedom to pull out of these programs with the President's blessing—for it abolishes all of the standards for medicaid—even the requirement for the early and periodic screening of children.

This block-grant program would result in doctors refusing to see poor patients. It would result in hospitals excluding poor patients from their facilities. It would result in more fraud and abuse. And, most important, it would result in the greatest retreat in decades from social justice—and from the ideas of health care as a right for all.

This philosophy of retreat is clear in other actions of this administration—such as President Ford's vetoes of two important health bills in this session of the Congress. In January of this year he vetoed the fiscal year 1976 Labor-HEW appropriations. By his veto he said "no" to medical research, nurse training, neighborhood health centers, migrant health centers, immunization programs, health planning, and all the other health programs of DHEW. In fact, he has fought to keep these programs on a starvation budget for years—and would like to see most of them cut way back—or killed—to save money. Similarly, in March, President Ford vetoed the Health Services and Nurse Training Act. This bill revised and continued such vital Federal programs as neighborhood and migrant health centers, community mental health centers, and the nurse training program. Again, the President argued we could not afford better health for our people. Again and again President Ford shows his lack of sensitivity to pressing needs, the lack of priority he gives improved health care for the American people, and his refusal to offer leadership in this area.

So this is the President's program: No national health insurance, greater payments by the elderly, retreat from Federal support for health care for the poor, dumping of responsibility on the States—and vetoes.

I am proud to have been part of a Democratic Senate that has fought to preserve what is good in Government. I am proud to have led the successful fight to override the President's veto of the health services bill—and I count it a victory that neighborhood health centers, mental health centers, and others have survived with the Senate's help—though times have been tough and left scars.

I am proud that we have pushed ahead with innovative health planning legislation, HMO legislation—and a fundamental reform of medical education in our health manpower bill passed just yesterday.

I am proud that we have insisted upon adequate funding for our important health programs.

Mr. President, in health care, the leadership, the imagination, and the sensitivity to our people's needs have come from the Democratic Congress.

And we have a clear agenda ahead of us. We must establish a policy guaranteeing health care for all Americans. Specifically, we must adopt a national health insurance program based on the principles of:

First, universal coverage of all Americans under the same program regardless of income, where they work, age, past medical history, or any other factor;

Second, comprehensive benefits including care in the doctor's office as well as in the hospital—and to encourage preventive care and early diagnosis and treatment;

Third, reform of the health care system to eliminate waste, to encourage efficiency and economy, and to control total health expenditures under strict public budgets;

Fourth, development of needed health care resources in every community of our Nation so that good health care is not only well-insured, but easily available; and

Fifth, public administration of this insurance program building on social security and medicare.

Only such a program would guarantee that health is a right and not a privilege for all Americans, and the President is dead wrong. We can afford such a program—in fact—without such a program, we are all going to go bankrupt on health care.

In fact, this program of NHI would cost no more than what we are paying for health care today. In fact, the Congressional Budget Office has estimated that such a program could, by 1981, result in savings of health care costs of more than $23 billion. This is true because real cost containment-prospective budgeting and the elimination of waste—could be implemented with such a program. These reforms, in fact, cannot be accomplished any other way.

Health care costs can be contained. A prospective budgeting system would insure that increases in costs parallel increases in the gross national product and represent true increases in the value of service provided. The program would be organized to maximize the efficiency and effectiveness of services. Programs to consolidate unneeded bureaucratic claims processing, to provide drugs on an economical basis would be instituted.

Also, the program would increase the services in rural and inner-city areas. Heavy emphasis would be placed on efficient and effective primary care. Incentives would be provided to move doctors from areas where there are too many to areas where there are not enough.

And finally, acting as a prudent buyer, the Federal Government would help assure the quality of care. Physicians, like airline pilots, would be required to stay up to date. Continuing education programs would be developed. Standards for performance would be established. In areas in which only professional peer review is appropriate, the peer review program would be strengthened.

In summary, we face enormous problems in our health care system. But these problems can be solved. They need not continue. What is needed is commitment to the needs of our people—and the leadership to develop a program—commitment and leadership which this administration lacks. The program I have described will not cost more than what we are spending now. It will not result in escalating costs in the future. It will result in health care as a right for all Americans.

Mr. President, I withhold the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for not to exceed 10 minutes.

HEALTH CARE PROGRAMS

Mr. HATHAWAY. Mr. President, when a patient is sick, the first thing the doctor does is to try and find the cause of the illness. Then he determines the most effective method of treatment. If the patient is not treated soon enough or not enough medication is given, serious complications are sure to arise.

America's biggest medical problem today is the critical condition of its health care programs. Millions literally cannot afford the medical care they need, but the doctors in charge for the past 8 years—the Nixon and Ford administrations—have refused to give the proper treatment. Instead, they have delayed implementing essential new programs and cut back on others.

One need only look at the record to know that we need a new doctor now.

Republican attempts to cut health programs have made the needs of the poor, the sick and the aged the scapegoats for budget balancing and the false promises of fiscal prudence. It appears the Nixon and Ford administrations believe we cannot have a healthy America and a healthy budget at the same time.

And they have given us neither.

During the past 8 years of Republican administration, health care costs have continued to gallop ahead of the ever-increasing consumer price index.

At the same time, Federal inaction has taken its toll on the efficiency of the administration of this Nation's health care system.

Rather than give us new programs, the Republican administrations have consistently retreated.

We have seen the retreat in the administration's withdrawal from the modest national health insurance proposal they put forth last year.

It was markedly similar to the Nixon administration retreat in 1973 when it offered a wholly inadequate health insurance program and then sent it back to the drawing boards because there were too many gaps in the coverage.

All those retreats have meant delays and those delays have amounted to incalculable costs in terms of effective health care for all Americans.

What is the administration doing now that health expenditures have risen from $77 billion to over $118 billion in a 2-year period?

First, it wanted to increase the share of medical bills the aged and disabled pay under medicare. Then it retreated, but only because the Democratic Congress opposed saddling those groups having the greatest need for medical treatment and the least ability to pay with these higher costs.

Second, it has responded with vetoes. The veto of the Health Services Act which would fund a variety of health service programs to help many of these people to obtain the treatment at a reasonable cost is a classic example.

With that veto, the Ford administration said no to funds for neighborhood health centers; no to grants to States for local health programs; no to community mental health programs and services to migrant workers; and no to training additional health manpower to end the severe doctor and nurse shortages in our urban and rural areas.

The Ford administration would rather see all of these essential programs take their chances for funding under a block grant system through special revenue sharing proposals, the Financial Assistance of Health Care Act.

The administration wants to shift the burden of medicaid and 16 other health care programs to the States. These are programs that would be severely jeopardized without the guarantee of Federal revenue. Under this proposal, untrolled medicaid expenditures would have consumed the lion's share of the block grant funds, leaving programs such as environmental health, preventive health services, alcoholism treatment, and mental health with as little as 80 percent, 50 percent, and then 25 percent of their current allotments in successive years.

Furthermore, this proposal would have relieved the States of any required matching arrangement and greatly exacerbated the glaring inequities and gaps in care for the aged and disabled. Only the strong opposition of the Democratic Congress prevented this from happening.

If the Republican administration's priority is reorganization and consolidation, when it comes to Federal health care programs, their approach is killing this country.

If further proof is needed, let us examine the President's budget requests for health. Once again essential programs to the vulnerable—the young, the poor, the aged, and the disabled—have been cut.

One-third of our children are not immunized against the childhood diseases of polio, measles, and diphtheria, and experts are predicting new epidemics of these easily preventable diseases. Nevertheless, the Republican administration advocates cutting immunization and other disease control programs.

For example, community health centers, rat control, emergency medical services, mental health services, community alcoholism programs all have sharply reduced budget requests this year. When one considers the impact of inflation on existing funds for these programs, the severity of such reductions is underscored. Such budgetary surgery is definitely not curative and it could very well be fatal to the effectiveness of these programs. Budget cutbacks alone do not bring about greater government efficiency. In this case, they reflect inept administrative planning and they are symptomatic of a Republican administration suffering from acute mismanagement and grossly misplaced priorities.

The failure of the previous Republican administrations to address the issue of the need for a universal health insurance system and the continued absence of any clear cut proposal in the 1976 Republican Party platform epitomizes their ostrich-style approach to adequate health care management.

America's health problems will not disappear if they are ignored, and they are clamoring for immediate attention.

We spend over 8 percent of our GNP on health care; 23 percent of this amount is spent by the Federal Government. While this Federal share is growing, Federal cost saving controls are not.

The Republican administrations seem to have no problem in proposing that the patients pay a greater share of the burgeoning cost of health care. Yet, they seem equally undisturbed about the cost-increasing abuses perpetrated by certain

providers of health care. These same providers determine how much care is used and what prices are charged for these services.

Consequently, the Republican Party platform does not press for vigorous enforcement of utilization review and accountability for fiscal intermediaries in health care programs paid by the taxpayers.

It is quite apparent that the Federal Government must develop an equitable, controllable, and cost effective national health program. As both a humane and technologically innovative nation, we can wait no longer. We can and must get better health care for our money and more access to health care resources for all our citizens. But the administration's treatment of Federal health care programs gives us no such hope or direction.

It gives us two aspirin and tells us to call again in another 4 years.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 10 minutes.

The Senator from Iowa.

Mr. CLARK. Mr. President, I would like to be reminded at the end of 5 minutes because I would like to yield to the Senator from South Dakota at that time.

FEDERAL ROLE IN RURAL HEALTH CARE

Mr. CLARK. Mr. President, I am pleased to have this opportunity to speak on the Federal role in rural health care. Almost every recent public opinion survey of priority issues finds health care at the top of the list. Americans place it ahead of almost every other area in terms of where additional Federal funding and support should be placed.

Through hearings held in Vermont earlier this year and through my travels in Iowa, I have learned that health care is especially problematic for Americans living in the countryside. Every month I receive letters from constituents who ask for our help to get their community a physician or some other health practitioner. This situation is certainly exasperating and frustrating for rural Americans. I share their disillusionment, for I see the present powerlessness of the Federal Government to address their problems.

Most will agree that the root of the rural health problem is the nonavailability of health care personnel who can provide basic, primary health services.

So far our Nation has failed in its attempts to motivate young health professionals to practice in rural communities. The time has come for us to face this problem directly and forcefully without delay.

As the first step, we must fund existing health programs at adequate levels, so that their effectiveness will not be limited due to a lack of sufficient resources.

In several key areas, the Congress has responded to the rural health care situation and has increased the funds for these programs.

The community health centers program provides financial assistance to primary health clinics, two-fifths of which are located in rural medically underserved areas of the country. More than 1.8 million Americans, who previously had little or no access to basic health services, are now benefiting from this fine program at 177 community health centers.

Despite an overriding need to extend these health clinics to many more areas of the country, the administration proposed that the program be cut some 40 percent, causing nearly 100 centers to close.

Congress chose to ignore the administration's suggestion, and, instead, we decided to expand the program to allow for a continuation and expansion of community health services.

To cite another clear example of the Congress' commitment to resolving the rural health dilemma, let us consider the migrant health center program. Much like the community health center's program, the migrant program provides funds for primary health services. However, this program is focused on the critical health needs and unique circumstances of migrant workers and their families.

While President Ford recommended a budget cut that would sharply reduce the activities of the migrant health program, the Congress voted to expand the program in the coming fiscal year.

The administration also hopes to cut other programs that are helping to improve health care for people in rural America. Among these are the popular emergency medical services program, financial aid programs for medical students, and the nurse training program. Although Congress has yet to enact an appropriations measure for these programs, I am confident that we will strengthen, rather than curtail them.

There are two bright spots in President Ford's 1977 health budget. Proposed increases in the National Health Service Corps, the National Health Service Corps scholarship program, and the nurse practitioner training program are welcome signs that the administration does want to improve access to health care in rural America.

Congress has decided to expand the nurse practitioner training program beyond the administration's goal. It will likely do the same for the other two programs that are aimed at correcting the problem of geographic maldistribution of health personnel.

This year the Congress has made a major new commitment to rural health care by acting on health manpower legislation. In the Senate committee report to the health manpower bill, the following statement summarizes this commitment:

> The committee regards the geographic maldistribution of health professionals—especially physicians and dentists—as the Nation's most serious health manpower problem. Because health professionals are not available and accessible, health care remains beyond the reach of all too many families. Even the citizen's ability to pay for services becomes meaningless if services are not actually available.

In recognition of this problem, Congress will, within the next week or two, complete action on legislation to substantially expand the National Health Service Corps and its scholarship program. This would increase the number of young doctors practicing in rural and inner-city areas with physician shortages. Other segments of the health manpower legislation would encourage doctors to enter primary care fields like family practice medicine.

I also want to note that the new legislation would expand our Nation's use of nurse practitioners and other forms of physician extenders. These health personnel provide high-quality primary health care, often in satellite clinics in remote rural areas. The expanded programs of training and placement have my unqualified support, and I will work to further facilitate the utilization of physician extenders through changes in the medicare reimbursement policies.

To summarize, we are just now laying the groundwork for an expanded, improved, and integrated system of rural health care. We are still far from that goal, but with continued support from Congress and the Nation, and with an administration sensitive to the needs of rural Americans, I believe that goal is attainable.

Mr. President, I yield the remainder of my time to the Senator from South Dakota.

DEATH OF ORLANDO LETELIER

Mr. ABOUREZK. Mr. President, less than 3 hours ago a friend of mine was murdered here in Washington, D.C., on Sheridan Circle. Orlando Letelier, who was in a car this morning with two other people, died as a result of a bomb explosion. The bomb, with a timing device was planted in the car. Ronni Karpen Moffitt, who was in the front seat with him died also, and Michael Moffitt, her husband, who was in the back seat, is presently in the hospital in serious condition.

The police do not know at this time who committed the murder, although they have an idea who it was.

Orlando Letelier had been Minister of Defense in Chile during the regime of President Salvador Allende prior to the takeover by the junta in 1973. For a time he was Chile's Ambassador to the United States. At the time of his murder, he was Director of the Transnational Institute for Policy Studies headquartered here in Washington, D.C., and in Amsterdam.

He spent a year in a Chilean prison following the junta's takeover, undergoing torture until his release and his subsequent entry into the United States, which had provided a safe haven for him—or so he believed.

He leaves behind him his wife Isabel, and four children.

Orlando Letelier, as I knew him, was a very gentle, kind, civilized, and nonviolent person, who was dedicated only to two things: To democracy and to the truth. I am convinced that is why he was murdered. He was a threat to no one, except to those who fear the truth. He was stripped of his Chilean nationality last week by the dictators in Chile. There were threats at that time emanating

from the Government in Chile which indicated that they would be after his life. And they succeeded today.

The tragedy goes beyond the cold-blooded murder of Orlando Letelier and Ronni Moffitt. It means that the tyranny of the dictatorship in Chile has now been extended in part to the United States. After the thousands of people who died after the overthrow in 1973, after the other thousands who were imprisoned and tortured simply because of their political beliefs, it seems almost too much that the unfortunate victims of the dictatorship must be hounded and murdered wherever they might be found.

Beyond finding the murderers, and beyond even tracing them back to their source within the Chilean dictatorship, I am hopeful the people of the United States can put an end to support by this country for the dictators there.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time has the Senator remaining?

The ACTING PRESIDENT pro tempore. The Senator's time was just about to expire.

Mr. ROBERT C. BYRD. How much time do I have, Mr. President?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia has 10 minutes plus 2 minutes remaining which have been yielded to him. He is recognized for not to exceed 12 minutes.

Mr. ROBERT C. BYRD. Mr. President, two additional measures have been cleared for action by unamious consent.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 1184 and 1193.

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

NATIONAL SOCIETY OF THE DAR

The bill (H.R. 11149) to amend section 2 of the act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1249), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to amend the Act passed by Congress on February 20, 1896, that incorporated the National Society of the Daughters of the American Revolution (NSDAR) in two ways:

(1) remove the limit of $10,000,000, now contained in section 2 of the Act, on the amount of real and personal property which the NSDAR is permitted to own in the United States, and

(2) add a new section to the Act that would provide the NSDAR with the sole and exclusive right to the use of its name and emblem.

STATEMENT

This legislation which was passed by the House on July 19, 1976, and was referred to this Committee is needed in order to bring the NSDAR's incorporating statute into conformity with those of other similar organizations, to relieve the NSDAR from the burden of repeatedly seeking the passage of legislation amending the Act, to modernize the type of protection previously accorded its badge, and to broaden the scope of its authorization to hold property.

As originally passed by Congress in 1896, the Act incorporating the NSDAR authorized it to hold real and personal property in the United States in an amount not exceeding $500,000. Since that time the Act has been amended three times in order to increase the amount of authorized property holdings. In 1915 the amount was increased to $1,000,000; in 1926 to $5,000,000; and in 1951, to its present level of $10,000,000. The proposed legislation would delete the $10,000,000 limit and authorize the NSDAR to "acquire by purchase, gift, devise or bequest and to hold, convey, or otherwise dispose of such property, real or personal, as may be convenient or necessary for its lawful purposes."

Of the 50 private corporations listed in title 36 of the United States Code, the NSDAR is presently the only one that is restricted to a dollar limit on the amount of its property holdings. Three organizations incorporated around the turn of the century originally had dollar limitations of this kind, but in each of these cases Congress has removed the limits. The American Historical Association's (incorporated 1889) limit was removed in 1957 (Pub. L. 85–83, § 1, 71 Stat. 276) the Sons of the American Revolution's (incorporated 1906) limit was removed in 1961 (Pub. L. 87–214, 75 Stat. 489), and the General Federation of Women's Clubs' (incorporated 1901) limit was removed as recently as last December (Pub. L. 94–151). The proposed amendment would, therefore, relieve the NSDAR from the burden, which it alone bears among these organizations, or repeatedly seeking the passage of legislation increasing the level of authorized property holdings.

The proposed legislation would provide the NSDAR with the exclusive right to the use of its name and its badges or emblems. Historically, the emblem or badge, of the NSDAR has been protected from unauthorized use by a design patent. This form of protection is cumbersome, archaic and may no longer be available to the NSDAR. The proposed legislation would obviate the need for a design patent by protecting the emblem of the NSDAR through amendment of the NSDAR's corporate charter.

The design patent, numbered 21,053, was granted to George Brown Goode on September 22, 1891 and was subsequently assigned to the NSDAR. The term of the patent was extended several times by Congress, and was last extended on July 12, 1960 (Private Law 412, 86th Congress, 74 Stat. A 70). The NSDAR attempted to obtain yet another extension of the design patent through the introduction of H.R. 7584 in the 93d Congress, and H.R. 1652 in the 94th Congress. Before Congress acted on either of these bills, however, the term of the patent expired on July 12, 1975.

In correspondence with the Chairman of the House Judiciary Committee, Peter W. Rodino, Jr., the Department of Commerce has suggested that protection under the patent laws may no longer be available to the NSDAR. However, Mr. Parrette, Deputy General Counsel of the Department of Commerce, has stated that the Department "would not object to the enactment of appropriately drafted legislation along the lines of that which protects emblems of associations without reference to the patent laws, e.g., the federal statute relating to the improper use of the emblem of the United States Olympic Association." In addition to the U.S. Olympic Association, other samples of organizations whose emblems are protected by recent federal legislation includes the Paralyzed Veterans of America (incorporated 1971, 36 U.S.C.A. § 1160), the National Woman's Relief Corps, Auxiliary to the Grand Army of the Republic (incorporated 1962, 36 U.S.C.A. § 1017), and the Blue Star Mothers of America (incorporated 1960, 36 U.S.C.A. § 956). A provision protecting the organization's emblem was also considered appropriate to such legislation as early as 1916, when the Boy Scouts of America was incorporated by Congress (36 U.S.C.A. § 27).

The proposed legislation conforms with the recommendation of the Department of Commerce. Furthermore, amending the NSDAR's corporate charter to protect the corporation's name and emblem clearly is appropriate for three reasons: First, the amendment would provide the NSDAR with more appropriate protection than that available through the more antiquated means of a design patent, which protection may not be available. Second, it would remove the necessity of seeking an extension of protection every fourteen years. Third, as in the case of the deletion of the property holding limitation, such an amendment would achieve conformity with the statutes of other organizations incorporated by Congress.

For these reasons, the Committee recommends the enactment of S. 3489.

Attached and made a part of this report is the letter from the General Counsel of the Department of Commerce to the Committee on the Judiciary, House of Representatives, in regard to the bill.

GENERAL COUNSEL
OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 9, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Commerce on H.R. 1652, a bill:

"To extend the term of design patent numbered 21,053, dated September 22, 1891, for a badge, granted to George Brown Goode, and assigned to the National Society, Daughters of the American Revolution."

The above identified design patent has been subject to numerous extensions by Congress and was last extended by the act of Congress, approved July 12, 1960, Private Law 412, 86th Congress (74 Stat. A 70).

A bill identical to H.R. 1652 (except for one technical point) was introduced in the 93d Congress (H.R. 7584, May 7, 1973) and this department recommended its enactment. Our recommendation was largely based on reasons recited in House Report No. 1973, 86th Congress, a photocopy of which is attached.

However, the design patent subject of that bill, and of the present bill, expired on July 12, 1974, 14 years from the date of approval of the last extension by the Congress. With the expiration of that term it is our view that there is no right existing under the patent law which is capable of extension because of the well established principle that expiration of the term of a patent is tantamount to a dedication of the subject matter of the patent to the public.

It appears that the principal reason for the continuing legislation enacted on behalf of this and other similar institutions, extending the terms of design patents in respect of their emblems, is to prevent confusing or deceptive use of these emblems by others. This kind of protection is more properly achieved under the unfair competition law and trademark statutes rather than under the patent law. We recognize the concern which gives rise to the extension bill results from certain federal court decisions holding that all proprietary rights are dedicated to the public upon expiration of a design patent. (E.g. *Kellogg Co.* v. *National Biscuit Co.*, 305 U.S. 111 (1938), involving a design patent on the well known "pillow" shape of the Shredded Wheat product.)

Thus, as a result of these decisions, certain rights in the design of the DAR badge may

already have been adversely affected by the expiration of the extended term of the design patent on July 12, 1974. For example, should anyone have imitated and used the DAR emblem after the expiration of the design patent, enactment of this bill could raise serious questions regarding the intervening rights of that user who may have begun his activities in reliance on the termination of patent protection with respect to the design in question.

More important, the ruling of the court in the *Kellogg* case is not necessarily the prevailing authority on this question. The most current interpretation is that expiration of a design patent is not inconsistent with enforcement of trademark rights in the subject matter of the design patent or the bringing of an unfair competition action to prevent the confusing or deceptive use of features of the patented article which are non-functional and have acquired a secondary meaning as an indication of source of origin. *In re Honeywell, Inc.*, 181 U.S.P.Q. 821 (CCPA 1974), cert. denied 184 U.S.P.Q. 129 (1974). In view of this decision, and others, it seems to us appropriate that the National Society, Daughters of the American Revolution should seek to secure protection of its badge under the trademark and unfair competition laws. Thus, we do not believe that enactment of legislation following expiration of the subject design patent is a recommended course of action.

We would not object to the enactment of appropriately drafted legislation along the lines of that which protects emblems of associations without reference to the patent laws, e.g., the federal statute relating to improper use of the emblem of the United States Olympic Association. Such legislation has the advantage of not being subject to periodic extension bills referenced to the patent statute and the further advantage of not being subject to the deficiencies peculiar to the patent laws as indicated above.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

BERNARD V. PARRETTE,
Deputy General Counsel.

AGENCY SEPARATION OF FUNCTIONS

The Senate proceeded to consider the bill (S. 798) to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 9, strike "shall" and insert "may";

On page 2, line 1, strike the period and insert a comma and "or the entire record may be certified to the agency for decision.";

On page 2, line 10, strike "(g)" and insert "(f)";

On page 2, line 12, strike "(g)" and insert "(f)";

On page 2, line 20, strike "prosecuting" and insert "litigating";

On page 2, line 23, strike "prosecuting" and insert "litigating";

On page 3, line 3, strike "ratemaking and cognate proceedings and";

On page 3, line 6, strike "prosecuting" and insert "litigating";

On page 3, beginning with line 10, insert:

"(3) This subsection does not apply to the agency or any member of the body comprising the agency.";

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 554(d) of title 5, United States Code, is amended to read as follows:

"(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency, in which case such decision *may* be made by an employee qualified to preside at hearings pursuant to section 556 of his title, or the entire record may be certified to the agency for decision. This subsection does not apply—

"(A) in determining applications for initial licenses;

"(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

"(C) to the agency or a member or members of the body comprising the agency.".

SEC. 2. Section 556 of title 5, United States Code, is amended by adding a new subsection (f) to read as follows:

"(f)(1) Except to the extent required for the disposition of ex parte matters as authorized by law, the employee who presides at the reception of evidence may not—

"(i) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

"(ii) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or litigating functions for an agency.

"(2) An employee or agent engaged in the performance of investigative or litigating functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings or as authorized by section 557(b)(1), except that in cases not subject to section 554(d) of this title, an employee shall not be deemed to have engaged in the performance of investigative or litigating functions solely by virtue of his general organizational or supervisory responsibility for such functions.".

"(3) This subsection does not apply to the agency or any member of the body comprising the agency.".

The amendments were agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1259), explaining the purposes of the measure.

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

EXCERPT

HISTORY OF THE BILL

Revision of the Administrative Procedure Act safeguards relating to separation of functions has been considered by the Congress for over a decade. Legislation introduced in the 88th Congress proposed amending the provisions on separation of functions (*see*, proposed amendments to section 1005(c) of title 5, United States Code in S. 1663 and S. 2335, 88th Congress), and subsequent bills to amend the Administrative Procedure Act have followed suit (*e.g.*, S. 518, 90th Cong., 1st sess.).

The American Bar Association, following a study lasting over 14 years, adopted a specific resolution in August 1970 that legislation be adopted "providing that agency employees engaged in investigative or prosecuting functions in an adjudicatory proceeding or formal rulemaking proceeding cannot exparte participate in or advise in the decision of that proceeding by agency heads, review boards or hearing examiners." In June 1973 the Administrative Conference of the United States adopted a formal statement on the ABA resolution approving it in part but indicating that the Conference did not believe "that agency officials having general organizational or supervisory responsibility for such functions should, solely by virtue of that responsibility, be barred from performing their customary function of advising agency members in proceedings not presently covered by 5 U.S.C. 554(d)."

On February 22, 1975, Senators Edward M. Kennedy and Charles McC. Mathias introduced S. 797 and 7. 798, which reflected alternatively the ABA and Administrative Conference positions on this issue. The bills were referred to the Committee on the Judiciary and hearings were held on these and other proposals to amend the APA on April 28 and May 3, 1976. The subcommittee favorably reported S. 798, with amendments, to the full committee in July 1976.

On September 16, 1976, the Committee on the Judiciary met and ordered reported S. 798, as amended, without objection.

PURPOSE

The second and third sentences of section 554(d) of the Administrative Procedure Act contain three distinct provisions for protecting the independence of the decisiona process in formal, on-the-record agency adjudication:

First, the presiding officer, ordinarily an administrative law judge, may not consult a person or party on a fact in issue except on notice to all parties.

Second, the presiding officer must not be responsible to or subject to the supervision of agency officials engaged in the performance of investigative or prosecuting functions. Thus, as a practical matter, an agency's administrative law judges must be placed in an organizational unit separate from those to which investigative and prosecuting personnel are assigned under the supervision of the agency itself or of agency officers who exercise no investigative or prosecutive functions. (See, *AG Manual* 55–56).

Third, no employee who has performed investigative or prosecuting functions, in a case may participate or advise off-the-record in the agency decision in the same or a factually related case. He cannot, in other words, participate first as an investigator or advocate and then turn around and act as decisionmaker or confidential adviser to the decisionmaker in the same case. This principle is not limited to the decision by the presiding officer, but is applicable at all decisional levels within the agency.

Since section 554 is addressed only to formal adjudications, the three provisions described above are not applicable to formal rulemaking proceedings, nor are they applicable to certain categories of adjudication—initial license proceedings and proceedings to determine the validity of past rates—which are excepted from the coverage of section 554 (d) because of their similarity to rulemaking in the relative significance of policy as against purely factual issues. (*See, AG Manual* 50–51.) It was the judgment of the drafters of the APA that to impose the requirements of section 554(d) on formal rulemaking and initial licensing would undesirably restrict the flexibility of such proceedings.

Experience, however, has belied these fears. In point of fact nearly all agencies in conducting formal proceedings not covered by section 554(d) nevertheless follow procedures consistent with the requirements of the subsection. The Congress has already enacted a provision to apply the ex parte prohibitions in the Administrative Procedure Act to formal rulemaking proceedings. (*See,* Public Law 94–409.) Further, both the American Bar Association and the Administrative Conference of the United States have proposed that the separation-of-functions requirements contained in section 554(d) be expanded in their application to cover all for-

mal proceedings, both adjudication and rulemaking. S. 798 would accomplish this objective.

The committee had before it alternative bills dealing with separation of functions. S. 797, the bill proposed by the American Bar Association, would have extended without qualification to all formal proceedings the three provisions of section 554(d) described above. S. 798, the bill proposed by the Administrative Conference, would do the same, with a single qualification: The bar on participating or advising in the agency decision would not extend to agency officials who have not personally been involved in the case but who have general supervisory responsibility over employees who have participated in the case. For example, the general counsel of an agency would not be disqualified from advising the agency members with respect to a formal rulemaking proceeding simply because attorneys in the general counsel's office participated in the hearing.

It should be pointed out that it is not entirely clear that section 554(d) regards such general supervisory responsibility as disqualifying in and of itself. The *AG's Manual* raised but did not answer the question. (*See, AG Manual* 57–58; *see also,* Davis, *Administrative Law Treatise* sec. 13.07; *R. A. Holman* v. *SEC,* 366 F.2d 446, 453 (2d Cir. 1966) cert, denied, 389 U.S. 991 (1967).) However, in those agencies which conduct adjudications subject to section 554(d), the problem does not arise because of strict organizational separation between prosecuting and advisory functions.

However, if the separation-of-functions requirements of section 554(d) are extended to all formal proceedings, the question of disqualification because of supervisory responsibility will create problems in at least one major agency, the Federal Power Commission. It is Commission practice to require every staff member who is specifically assigned to work in the investigation or trial of a case set for a hearing to enter his appearance upon the record. Each such person must exclude himself from any Commission meeting involving that or a factually related case. However, the top staff members, the General Counsel, Assistant General Counsels, and Bureau chiefs, who might supervise those who are engaged in trying a case, usually attend Commission meetings at which the resolution of cases is discussed and are available to give legal advice to the Commission on request or on their own motion. Thus, these senior agency officials who may have had contact with the staff trying the case may later give legal or policy advice to the Commission.

The Commission vigorously opposes being required to sever either the advisory link between the Commissioners and the senior staff or the supervisory link between senior and trial staffs. Either separation would create both budgetary and personnel problems, since it would require separate advisory and supervisory staffs, and the Commission anticipates significant difficulty in recruiting additional staff with the legal and technical expertise required by the Commission's work. Furthermore, it must be recognized that even if a separate advisory staff were obtained, cutting off the Commission from the advice of its top officials with operating responsibilities would not be an unmixed blessing. (*See,* Federal Power Commission Report on S. 797 and S. 798 in 1976 Hearings.) Finally, apart from the particuar needs of the Federal Power Commission, complete separation of supervisory and advisory responsibilities may create problems in those agaencies which conduct formal rulemakings only occasionally and consequently have a need for some organizational flexibility. (*See,* Hamilton, "Procedures for the Adoption of Rules of General Applicability: The Need for Procedural Innovation in Administrative Rulemaking," 2 ACUS 834 (1972).) For these reasons, and in reliance of the deliberate judgment of the Administrative Conference, the committee has decided to adopt the Conference rather than the bar association proposal.

Accordingly, S. 798 provides specifically that in proceedings not subject to section 554(d), that is, in those formal proceedings to which the separation-of-functions provisions are being extended by this bill, general organizational or supervisory responsibility for investigative or litigating functions will not disqualify an agency official from advising the agency on the disposition of a case if the official has not personally participated, including actual exercise of supervisory authority, in the investigation or litigation of the same or a factually related case. In specifying that these circumstances are not to be deemed a violation of the principle of separation of functions in cases not subject to section 554(d), it is not the intent of the committee to alter in any way the law applicable in cases subject to section 554(d).

COST

The committee believes that there will be no additional cost imposed on any agency of the Federal Government by virtue of enactment of S. 798.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Mr. PELL be recognized for not to exceed 15 minutes and that I be recognized for not to exceed 15 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my remaining time as the Senator may wish to consume to Mr. KENNEDY.

DEATH OF ORLANDO LETELIER

Mr. KENNEDY. Mr. President, I have just learned that Orlando Letelier, the former Ambassador of Chile to the United States and a man who survived more than a year in prison in Chile under the military junta, has been killed in a bomb attack here in Washington early this morning.

I can only express my own personal sadness and my outrage at this action. I extend my deepest sympathy to his widow and his children. And I pray that the other innocent victims wounded in this attack will recover.

I want to tell my colleagues that this kind of political terrorism is absolutely unacceptable and I expect the most intensive and detailed investigation of this crime.

It is ironic that I was submitting for the attention of my colleagues an article that Ambassador Letelier recently wrote for the Nation magazine, one which demonstrates why he was considered by all to be a distinguished economist. He had worked in the development needs of Latin America for many years before the Allende regime, serving with distinction in the Inter-American Development Bank for many years.

I was going to note as well in my statement for the RECORD that his criticism of the junta's violation on human rights had produced a rare and totally unjustified removal of his Chilean citizenship by the junta—now, his murder follows.

I condemn this most recent against a man whose only crime was his belief in the freedom of his people.

Mr. President, the recent history of Chile has seen a military junta come to power through a violent coup and then compile an unequaled record of human rights violations against many foreigners, including several American citizens, as well as its own people.

It has been condemned by independent international commissions and by the United Nations and the Inter-American Human Rights Commissions for its gross violations of human rights. It has ripped apart the Democratic fabric of Chilean institutions.

Recently, several Ford administration officials have tried to separate its economic policies from its political character and to defend those policies.

A thoughtful and heavily documented article by Orlando Letelier, former Ambassador to the United States from Chile and a respected economist, criticizes those defenders of the Chilean "new economic order."

What underlines the character of the junta is that his analysis and his other critiques of this regime—many of them submitted to congressional committees—have now become the basis upon which the junta has withdrawn his Chilean citizenship. Apparently not satisfied with having imprisoned Mr. Letelier for more than a year, the junta issued an order a few days ago, in contravention of its own laws as well as in violation of international standards, to deprive him of his citizenship.

I ask unanimous consent that his article from the Nation magazine be printed in the RECORD at this point.

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

The "Chicago Boys" in Chile—ECONOMIC "FREEDOM'S" AWFUL TOLL

(By Orlando Letelier)

It would seem to be a common-sensical sort of observation that economic policies are conditioned by and at the same time modify the social and political situation where they are put into practice. Economic policies, therefore, are introduced *in order* to alter social structures.

If I dwell on these considerations, therefore, it is because the necessary connection between economic policy and its sociopolitical setting appears to be absent from many analyses of the current situation in Chile. To put it briefly, the violation of human rights, the system of institutionalized brutality, the drastic control and suppression of every form of meaningful dissent is discussed (and often condemned) as a phenomenon only indirectly linked, or indeed entirely unrelated, to the classical unrestrained "free market" policies that have been enforced by the military junta. This failure to connect has been particularly characteristic of private and public financial institutions, which have publicly praised and supported the economic policies adopted by the Pinochet government, while regretting the "bad international image" the junta has gained from its "incomprehensible" persistence in torturing, jailing and persecuting all its critics. A recent World Bank decision to grant a $33 million loan to the junta was justified by the President, Robert McNamara, as based on purely "technical" criteria, implying no particular relationship to the present political and social conditions in the country. The same line of justification has been fol-

lowed by American private banks which, in the words of a spokesman for a business consulting firm, "have been falling all over one another to make loans." (See Ann Crittenden: "Loans from Abroad Flow to Chile's Rightist Junta," *The New York Times*, February 20.) But probably no one has expressed this attitude better than the U.S. Secretary of the Treasury. After a visit to Chile, during which he discussed human rights violations by the military government, William Simon congratulated Pinochet for bringing "economic freedom" to the Chilean people (*The Times*, May 17). This particularly convenient concept of a social system in which "economic freedom" and political terror coexist without touching each other, allows these financial spokesmen to support their concept of "freedom" while exercising their verbal muscles in defense of human rights.

The usefulness of the distinction has been particularly appreciated by those who have generated the economic policies now being carried out in Chile. In *Newsweek* of June 14, Milton Friedman, who is the intellectual architect and unofficial adviser for the team of economists now running the Chilean economy, stated: "In spite of my profound disagreement with the authoritarian political system of Chile, I do not consider it as evil for an economist to render technical economic advice to the Chilean Government, any more than I would regard it as evil for a physician to give technical medical advice to the Chilean Government to help end a medical plague."

It is curious that the man who wrote a book, *Capitalism and Freedom*, to drive home the argument that only classical economic liberalism can support political democracy can now so easily disentangle economics from politics when the economic theories he advocates coincide with an absolute restriction of every type of democratic freedom. One would logically expect that if those who curtail private enterprise are held responsible for the effects of their measures in the political sphere, those who impose unrestrained "economic freedom" would also be held responsible when the imposition of this policy is inevitably accompanied by massive repression, hunger, unemployment and the permanence of a brutal police state.

THE ECONOMIC PRESCRIPTION AND CHILE'S REALITY

The economic plan now being carried out in Chile realizes an historic aspiration of a group of Chilean economists, most of them trained at Chicago University by Milton Friedman and Arnold Harberger. Deeply involved in the preparation of the coup, the "Chicago boys," as they are known in Chile, convinced the generals that they were prepared to supplement the brutality, which the military possessed, with the intellectual assets it lacked. The U.S. Senate Select Committee on Intelligence has disclosed that "CIA collaborators" helped plan the economic measures that Chile's junta enacted immediately after seizing power ("A Draconian Cure for Chile's Economic ills," *Business Week*, January 12). Committee witnesses maintain that some of the "Chicago boys" received CIA funds for such research efforts as a 300-page economic blueprint that was given to military leaders before the coup. It is therefore understandable that after seizing power they were, as *The Wall Street Journal* (November 2, 1973) put it, "champing to be unleashed" on the Chilean economy. Their first approach to the situation was gradual; only after a year of relative confusion did they decide to implement without major modification the theoretical model they had been taught at Chicago. The occasion merited a visit to Chile by Mr. Friedman himself who, along with his associate, Professor Harberger, made a series of well-publicized appearances to promote a "shock treatment" for the Chilean economy—something that Friedman emphatically described as "the only medicine. Absolutely. There is no other. There is no other long-term solution." (The quotation is from *El Mercurio* of Santiago, March 23, 1975.)

These are the basic principles of the economic model offered by Friedman and his followers and adopted by the Chilean junta; that the only possible framework for economic development is one within which the private sector can freely operate; that private enterprise is the most efficient form of economic organization and that, therefore, the private sector should be the predominant factor in the economy. Prices should fluctuate freely in accordance with the laws of competition. Inflation, the worst enemy of economic progress, is the direct result of monetary expansion and can be eliminated only by a drastic reduction of government spending.

Except in present-day Chile, no government in the world gives private enterprise an absolutely free hand. That is so because every economist (except Friedman and his followers) has known for decades that, in the real life of capitalism, there is no such thing as the perfect competition described by classical liberal economists. In March 1975, in Santiago, a newsman dared suggest to Friedman that even in more advanced capitalist countries, as for example the United States, the government applies various types of controls on the economy. Mr. Friedman answered: "I have always been against it, I don't approve of them. I believe we should not apply them. I am against economic intervention by the government, in my own country, as well as in Chile or anywhere else" (*Que Pasa*, Chilean weekly, April 3, 1975).

This is not the place to evaluate the general validity of the postulates advanced by Friedman and the Chicago School. I want to concentrate only on what happens when their model is applied to a country like Chile. Here Friedman's theories are especially objectionable—from an economic as well as a moral point of view—because they propose a total free market policy in a framework of extreme inequality among the economic agents involved: inequality between monopolistic and small and medium entrepreneurs; inequality between the owners of capital and those who own only their capacity to work, etc. Similar situations would exist if the model were applied to any other underdeveloped, dependent economy.

It is preposterous to speak about free competition in Chile. The economy there is highly monopolized. An academic study made during President Frei's regime pointed out that in 1966 "284 enterprises controlled each and every one of the subdivisions of Chilean economic activities. In the industrial sector, 144 enterprises controlled each and every one of the subsectors. In turn, within each of these 144 manufacturing enterprises which constituted the core of the industrial sector, a few shareholders controlled management: in more than 50 percent of the enterprises, the ten largest shareholders owned between 90 and 100 percent of the capital." (*Politica y Espiritu*, No. 356; 1975.)

On the other hand, studies also conducted during the pre-Allende period demonstrated the extent to which the Chilean economy has been dominated by foreign-based multinationals. As Barnet and Müller put it in *Global Reach*, "In pre-Allende Chile, 51 percent of the largest 160 firms were effectively controlled by global corporations. In each of the seven key industries of the economy one to three firms controlled at least 51 percent of the production. Of the top twenty-two global corporations operating in the country, nineteen either operated free of all competition or shared the market with other oligopolists."

From 1971 to 1973, most of the monopolistic and oligopolistic industries were nationalized and transferred to the public sector. However, the zeal with which the military dictatorship has dismantled state participation in the economy and transferred industries to foreign ownership suggests that levels of concentration and monopolization are now at least as high as they were before the Popular Unity (Allende) Government.

An International Monetary Fund Report of May 1976 points out: "The process of returning to the private sector the vast majority of the enterprises which over the previous fifteen years, but especially in 1971–73, had become part of the public sector continued [during 1975]. . . . At the end of 1973 the Public Development Corporation (CORFO) had a total of 492 enterprises, including eighteen commercial banks. . . . Of this total, 253 enterprises . . . have been returned to their former owners. Among the other 239 enterprises . . . 104 (among them ten banks) have been sold; sixteen (including two banks) have already been adjudicated, with the completion of the transfer procedure being a matter of weeks; the sale of another twenty-one is being negotiated bilaterally with groups of potential buyers. . . ." Competitive bidding is still to be solicited for the remaining enterprises. Obviously the buyers are always a small number of powerful economic interests who have been adding these enterprises to the monopolistic or oligopolistic structures within which they operate. At the same time, a considerable number of industries have been sold to transnational corporations, among them the national tire industry (INSA), bought by Firestone for an undisclosed sum, and one of the main paper pulp industries (Celulosa Forestal Arauco), bought by Parsons & Whittemore.

There are many other examples to show that, as far as competition goes, Mr. Friedman's prescription does not yield the economic effects implicit in his theoretical model. In the first half of 1975, as part of the process of lifting regulations from the economy, the price of milk was exempted from control. With what result? The price to the consumer rose 40% and the price paid to the producer dropped 22%. There are more than 10,000 milk producers in Chile but only two milk processing companies, which control the market. More than 80% of Chilean paper production and all of certain types of paper come from one enterprise—the Compañia Manufacturera de Papeles y Cartones, controlled by the Alessandri interests—which establishes prices without fear of competition. More than fifteen foreign brands are offered in the Chilean home appliances market, but they are all in the hands of only three companies, which assemble them in Chile and determine their retail prices.

Of course, any of the followers of the Chicago School would say that, with the liberalization of the international market, as prescribed by the model, Chilean monopolies and oligopolies would be exposed to competition from abroad. However, that does not happen. Chile so lacks foreign currency that it cannot import what it needs of even the most essential goods. Still more important is the fact that foreign enterprises are not interested in sending to Chile goods which could compete with those manufactured by their own Chilean subsidiaries. Besides, in Chile the economic interests which control the manufacturing industry also control the financial apparatus and import activities. These groups are not disposed to compete with themselves. In short, the application of Friedman's theories to the real world of Chile means that the industrialists can freely "compete" at whatever price levels they choose.

Other aspects of the brand of economics taught at the University of Chicago are conveniently ignored by the junta's economic advisers. One is the importance of wage contracts freely negotiated between employers and workers; another is the efficiency of the market as an instrument to allocate resources in the economy. It is sardonic to mention the

right of the workers to negotiate in a country where the Central Workers' Federation has been outlawed and where salaries are established by the junta's decree. It may also seem grotesque to speak of the market as the most effective instrument for allocating resources when it is widely known that there are practically no productive investments in the economy because the most profitable "investment" is speculation. Under the slogan "We must create a capital market in Chile," selected private groups enjoying the juanta's protection have been authorized to establish so-called "financieras," which engaged in the most outrageous financial speculations. Their abuses have been so flagrant that even Orlando Saez, former president of the Chilean Industrialists' Association and a staunch supporter of the coup, could not refrain from protesting. "It is not possible," he said, "to continue with the financial chaos that dominates in Chile. It is necessary to channel into productive investments the millions and millions of financial resources that are now being used in wild-cat speculative operations before the very eyes of those who don't even have a job." (*La Tercera*, April 9, 1975.)

But the crux of Friedman's prescription, as the juanta never ceases to emphasize, is control of inflation. It should, according to the junta, enlist "the vigorous efforts of *all* Chileans." Professor Harberger declared categorically in April 1975: "I can see no excuses for not stopping inflation: its origins are well known; government deficits and monetary expansion have to be stopped. I know you are going to ask me about unemployment; if the government deficits were reduced by half, still the rate of unemployment would not increase more than 1% (*Que Pasa*, April 10, 1975). According to the junta's official figures, between April and December 1975, the government deficit was reduced by approximately the 50% that Harberger recommended. In the same period, unemployment rose six times as much as he had predicted. The remedy he continues to advocate consists of reducing government spending, which will reduce the amount of currency in circulation. This will result in a contraction of demand, which in turn will bring about a general reduction of prices. Thus inflation would be defeated. Professor Harberger does not say explicitly *who* would have to lower their standard of living to bear the costs of the cure.

Without a doubt, excessive monetary expansion constitutes an important inflationary factor in any economy. However, inflation in Chile (or any underdeveloped country) is a far more complex problem than the one presupposed by the mechanical models of the monetarist theorists. The followers of the Chicago School seem to forget, for example, that the monopolistic structure of the Chilean economy allows the dominant firms to maintain prices in the face of falling demand. They also forget the role that so-called inflationary expectations play in generating price increases. In Chile, inflationary expectations have lately been approximating 15% per month. Looking ahead, firms prepare for rising costs by raising their own prices. This continuous price "leap-frogging" feeds a general inflationary spiral. On the other hand, in such an inflationary climate, no one with liquid assets wants to hold them. Powerful interest groups, operating without government control, can thus manipulate the financial apparatus. They create institutions to absorb any available money and use it in various forms of speculation, which thrive on and propel inflation.

THE ECONOMIC RESULTS

Three years have passed since this experiment began in Chile and sufficient information is available to conclude that Friedman's Chilean disciples failed—at least in their avowed and measurable objectives—and particularly in their attempts to control inflation. But they have succeeded, at least temporarily, in their broader purpose: to secure the economic and political power of a small dominant class by effecting a massive transfer of wealth from the lower and middle classes to a select group of monopolists and financial speculators.

The empirical proof of the economic failure is overwhelming. On April 24, 1975, after the last known visit of Messrs. Friedman and Harberger to Chile, the junta's Minister of Finance, Jorge Cauas, said: "The Hon. junta have asked me to formulate and carry out an economic program primarily directed to eradicate inflation. Together with a numerous group of technicians, we have presented to the Chilean authorities a program of economic revival which has been approved and is beginning. The principal objective of this program is to stop inflation in the remainder of 1975." (The "group of technicians" is obviously Friedman and company.) By the end of 1975 Chile's annual rate of inflation had reached 341%—that is, the highest rate of inflation in the world.* Consumer prices increased that same year by an average 375%; wholesale prices rose by 440%.

Analyzing the causes of Chilean inflation in 1975, a recent report of the International Monetary Fund (IMF) says: "The cutback in government spending, with its adverse effects on employment, in housing, and public works, went significantly further than programmed in order to accommodate the large credit demands of the private sector. . . ." Later on it states: "Overall monetary management remained expansionary in 1975. Moreover, continued high inflationary expectations and the public's attendant unwillingness to increase its real cash balances greatly complicated the implementation of the monetary program." Referring to private organizations which have begun to operate without any control, the report adds that the "financieras" have been allowed to operate beside the commercial banking system and at interest rates up to 50% higher than the maximum permissible banking rate. According to the same source, the "financieras" were operating in 1975 at an interest rate of 14% a month, or 168% a year; they obtained loans in New York at 10% to 12% a year.

The implementation of the Chicago model has not achieved a significant reduction of monetary expansion. It has, however, brought about a merciless reduction of the income of wage earners and a dramatic increase in unemployment; at the same time it has increased the amount of currency in circulation by means of loans and transfers to big firms, and by granting to private financial institutions the power to create money. As James Petras, an American political scientist, puts it (*New Politics*, Winter 1976): "The very social classes on which the junta depends are the main instrumentalities of the inflation."

The inflationary process, which the junta's policies stimulated immediately after the coup, was slightly reduced in 1975 as compared to the unbelievable rate of 375.9% in 1974. Such a minor reduction, however, does not indicate any substantial approach to stabilization and seems on the whole utterly irrelevant to the majority of Chileans who must endure the total collapse of their economy. This situation recalls the story of a Latin American dictator at the beginning of this century. When his advisers came to tell him that the country was suffering from a very serious educational problem, he ordered all public schools closed. Now, more than seventy years into this century, there still remain disciples of the anecdotal dictator who think that the way to eradicate poverty in Chile is to kill the poor people.

The exchange rate depreciations and the cutbacks in governmental expenditures have produced a depression which, in less than three years, has slowed the country's rate of development to what it was twelve years ago. Real Gross Domestic Product (GDP) contracted during 1975 by nearly 15% to its lowest level since 1969, while, according to the IMF, real national income "dropped by as much as 26%, leaving real per capita income below its level ten years earlier." The decline in the overall 1975 GDP reflects an 8.1% drop in the mining sector, a 27% decline in the manufacturing industries and a 35% drop in construction. Petroleum extraction declined by an estimated 11%, while transport, storage and communications declined 15.3%, and commerce fell 21.5%.

In the agricultural sector production appears virtually stagnant in 1975–76, with only an 0.4% variation from the previous agricultural year. This stagnation has been caused by a combination of factors, including the continued rise in the cost of imported fertilizers and pesticides. The use of fertilizer dropped by an estimated 40% in 1975–76. The increase in import prices also accounted for the decline in production of pork and poultry, which are almost entirely dependent on imported feed. The return to the former owners of several million hectares of farm land that had been expropriated and transferred to peasant organizations under the 1967 Agrarian Reform Law, has also reduced agricultural production. As of the end of 1975 almost 60% of all agricultural estates affected by the land reform—equivalent to about 24% of total expropriated land—has been subject to the junta's decisions. Of this total, 40% of the agricultural enterprises (75% of the physical acreage and more than 50% of the irrigated land) have entirely reverted to former owners.

In the external sector of the economy, the results have been equally disastrous. In 1975 the value of exports dropped 28%, from $2.13 billion to $1.53 billion, and the value of imports dropped 18%, from $2.24 billion to $1.81 billion, thus showing a trade deficit of $280 million. Imports of foodstuffs dropped from $561 million in 1974, to $361 million in 1975. In the same period domestic food production declined, causing a drastic reduction in food for the masses of the population. Concurrently, the outstanding external public debt repayable in foreign currency increased from $3.60 billion on December 31, 1974, to $4.31 billion on December 31, 1975. This accentuated Chile's dependence on external sources of financing, especially from the United States. The junta's policies have burdened Chile with one of the highest per capita foreign debts in the world. In the years to come the nation will have to allocate more than 34% of its projected exports earnings to the payment of external debts.

But the most dramatic result of the economic policies has been the rise in unemployment. Before the coup, unemployment in Chile was 3.1%, one of the lowest in the Western Hemisphere. By the end of 1974, the jobless rate had climbed beyond 10% in the Santiago metropolitan area and was also higher in several other sections of the country. Official junta and IMF figures show that by the end of 1975 unemployment in the Santiago metropolitan area had reached 18.7% the corresponding figure in other parts of the country was more than 22%; and in specific sectors, such as the construction industry, it had reached almost 40 percent. Unemployment had continued to climb in 1976 and, according to the most conservative estimates, in July approximately 2.5 million Chileans (about one-fourth of the population) had no income at all; they survive thanks to the food and clothing distributed by church and other humanitarian organizations. The attempts by religious and other

*The two countries with the next highest rates of inflation in 1975 were Argentina, with 312%, and Uruguay with 68.1%. Both are countries with dependent capitalist economies that apply junta-style models of political repression and "economic freedom."

institutions to ease the economic desperation of thousands of Chilean families have been made, in most cases, under the suspicion and hostile actions of the secret police.

The inhuman conditions under which a high percentage of the Chilean population lives is reflected most dramatically by substantial increases in malnutrition, infant mortality and the appearance of thousands of beggars on the streets of Chilean cities. It forms a picture of hunger and deprivation never seen before in Chile. Families receiving the "minimum wage" cannot purchase more than 1,000 calories and 15 grams of protein per person per day. That is less than half the minimum satisfactory level of consumption established by the World Health Organization. It is, in short, slow starvation. Infant mortality, reduced significantly during the Allende years, jumped a dramatic 18% during the first year of the military government, according to figures provided by the U.N. Economic Commission for Latin America. To deflect criticism from within its own ranks against the brutal consequences of layoffs, the junta in 1975 established a token "minimum employment program." However, it covers only 3% of the labor force, and pays salaries amounting to less than $30—a month!

Although the economic policies have more mercilessly affected the working classes, the general debacle has significantly touched the middle class as well. At the same time, medium-size national enterprises have had their expectations destroyed by the reduction in demand, and have been engulfed and destroyed by the monopolies against which they were supposed to compete. Because of the collapse of the automobile industry, hundreds of machine shops and small industries which acted as subcontractors have faced bankruptcy. Three major textile firms (FIAD, Tomé Oveja and Bellavista) are working three days a week; several shoe companies, among them Calzados Bata, have had to close. Ferriloza, one of the main producers of consumer durable, recently declared itself bankrupt. Facing this situation, Raul Sahli, the new president of the Chilean Industrialists' Association, and himself linked to big monopolies, declared earlier in the year: "The social market economy should be applied in all its breadth. If there are industrialists who complain because of this, let them go to hell. I won't defend them." He is so quoted by André Gunder Frank in a "Second Open Letter to Milton Friedman and Arnold Harberger," April 1976.

The nature of the economic prescription and its results can be most vividly stated by citing the pattern of domestic income distribution. In 1972, the Popular Unity Government employees and workers received 62.9% of the total national income; 37.1% went to the propertied sector. By 1974 the share of the wage earners had been reduced to 38.2%, while the participation of property had increased to 61.8%. During 1975, "average real wages are estimated to have declined by almost 8%," according to the International Monetary Fund. It is probable that these regressive trends in income distribution have continued during 1976. What it means is that during the last three years several billions of dollars were taken from the pockets of wage earners and placed in those of capitalists and landowners. These are the economic results of the application in Chile of the prescription proposed by Friedman and his group.

A RATIONALE FOR POWER

The economic policies of the Chilean junta and its results have to be placed in the context of a wide counterrevolutionary process that aims to restore to a small minority the economic, social and political control it gradually lost over the last thirty years, and paricularly in the years of the Popular Unity Government.

Until September 11, 1973, the date of the coup, Chilean society had been characterized by the increasing participation of the working class and its political parties in economic and social decision making. Since about 1900, employing the mechanisms of representative democracy, workers had steadily gained new economic, social and political power. The election of Salvador Allende as President of Chile was the culmination of this process. For the first time in history a society attempted to build socialism by peaceful means. During Allende's time in office, there was a marked improvement in the conditions of employment, health, housing, land tenure and education of the masses. And as this occurred, the privileged domestic groups and the dominant foreign interests perceived themselves to be seriously threatened.

Despite strong financial and political pressure from abroad and efforts to manipulate the attitudes of the middle class by propaganda, popular support for the Allende government increased significantly between 1970 and 1973. In March 1973, only five months before the military coup, there were Congressional elections in Chile. The political parties of the Popular Unity increased their share of the votes by more than 7 percentage points over their totals in the Presidential election of 1970. This was the first time in Chilean history that the political parties supporting the administration in power gained votes during a midterm election. The trend convinced the national bourgeoisie and its foreign supporters that they would be unable to recoup their privileges through the democratic process. That is why they resolved to destroy the democratic system and the institutions of the state, and, through an alliance with the military, to seize power by force.

In such a context, concentration of wealth is no accident, but a rule; it is not the marginal outcome of a difficult situation—as they would like the world to believe—but the base for a social project; it is not an economic liability but a temporary political success. Their real failure is not their apparent inability to redistribute wealth or to generate a more even path of development (these are not their priorities) but their inability to convince the majority of Chileans that their policies are reasonable and necessary. In short, they have failed to destroy the consciousness of the Chilean people. The economic plan has had to be enforced, and in the Chilean context that could be done only by the killing of thousands, the establishment of concentration camps all over the country, the jailing of more than 100,000 persons in three years, the closing of trade unions and neighborhood organizations, and the prohibition of all political activities and all forms of free expression.

While the "Chicago boys" have provided an appearance of technical respectability to the *laissez-faire* dreams and political greed of the old landowning oligrachy and upper bourgeoisie of monopolists and financial speculators, the military has applied the brutal force required to achieve those goals. Repression for the majorities and "economic freedom" for small privileged groups are in Chile two sides of the same coin.

There is, therefore, an inner harmony between the two central priorities announced by the junta after the coup in 1973: the "destruction of the Marxist cancer" (which has come to mean not only the repression of the political parties of the Left but also the destruction of all labor organizations democratically elected and all opposition, including Christian-Democrats and church organizations), the establishment of a free "private economy" and the control of inflation a la Friedman.

It is nonsensical, consequently, that those who inspire, support or finance that economic policy should try to present their advocacy as restricted to "technical considerations," while pretending to reject the system of terror it requires to succeed.

ORDER OF BUSINESS

Mr. KENNEDY. 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. HELMS. 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. ROBERT C. BYRD. Mr. President, do I have any remaining time?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 3 minutes remaining.

Mr. ROBERT C. BYRD. Would the Senator from North Carolina like me to yield?

Mr. HELMS. A half minute.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from North Carolina for a unanimous-consent request.

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I ask unanimous consent that Carl Anderson of my staff be accorded the privileges of the floor during the discussion of S. 2278 and any votes thereon.

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

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

Mr. ROBERT C. BYRD. Will the Senator withhold that?

Mr. HELMS. Gladly.

UNANIMOUS-CONSENT AGREEMENT—S. 2613

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 2613, the Small Business Investment Act, is called up and made the pending business of the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the Senator from North Carolina (Mr. MORGAN) and the Senator from Utah (Mr. GARN); that there be a time limitation on any amendment of 30 minutes, and a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate for discussion, of 20 minutes; and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, may we have a short quorum call?

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

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unamous consent that the order for the quorum call be rescinded.

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

Mr. HELMS. Mr. President, I have no objection.

The ACTING PRESIDENT pro tempore, is there objection to the request of

the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

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.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 41 Leg.]

Abourezk	Helms	Stone
Allen	Kennedy	Williams
Byrd, Robert C.	Leahy	Young
Durkin	Packwood	
Hathaway	Pearson	

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississppi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Georgia (Mr. TALMADGE), the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

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

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I move the Senate adjourn, and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to adjourn.

Mr. ALLEN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to adjourn. On this question the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Maryland, (Mr. MATHIAS) are necessarily absent.

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

The result was announced—yeas 5, nays 74, as follows:

[Rollcall Vote No. 612 Leg.]

YEAS—5

Goldwater	McClure	Tower
Helms	Thurmond	

NAYS—74

Abourezk	Griffin	Packwood
Allen	Hansen	Pastore
Bartlett	Hart, Gary	Pearson
Bayh	Haskell	Pell
Bellmon	Hatfield	Percy
Biden	Hathaway	Proxmire
Brooke	Hollings	Randolph
Bumpers	Hruska	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Case	Jackson	Scott, William L.
Chiles	Javits	Sparkman
Clark	Johnston	Stafford
Cranston	Kennedy	Stennis
Culver	Laxalt	Stevens
Curtis	Leahy	Stevenson
Dole	Magnuson	Stone
Domenici	McClellan	Symington
Durkin	McIntyre	Taft
Eagleton	Metcalf	Weicker
Fannin	Morgan	Williams
Fong	Moss	Young
Garn	Muskie	
Gravel	Nelson	
	Nunn	

NOT VOTING—21

Baker	Eastland	Mathias
Beall	Ford	McGee
Bentsen	Glenn	McGovern
Brock	Hart, Philip A.	Mondale
Buckley	Hartke	Montoya
Cannon	Long	Talmadge
Church	Mansfield	Tunney

So the motion was rejected.

The PRESIDING OFFICER (Mr. HOLLINGS). A quorum is present.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of S. 2278.

The PRESIDING OFFICER (Mr. HOLLINGS). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2278), the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Kentucky (Mr. FORD) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Maryland (Mr. MATHIAS), and the Senator from from Idaho (Mr. MCCLURE) are necessarily absent.

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

The result was announced—yeas 69, nays 12, as follows:

[Rollcall Vote No. 613 Leg.]

YEAS—69

Abourezk	Griffin	Packwood
Bartlett	Hart, Gary	Pastore
Bayh	Haskell	Pearson
Bellmon	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Hollings	Proxmire
Bumpers	Hruska	Randolph
Burdick	Huddleston	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Sparkman
Clark	Johnston	Stafford
Cranston	Kennedy	Stevens
Culver	Laxalt	Stevenson
Curtis	Leahy	Stone
Dole	Long	Symington
Domenici	Magnuson	Taft
Durkin	McIntyre	Talmadge
Eagleton	Metcalf	Weicker
Fong	Moss	Williams
Garn	Muskie	Young
Gravel	Nelson	
	Nunn	

[NAYS—12]

Allen	Helms	Stennis
Eastland	McClellan	Thurmond
Fannin	Morgan	Tower
Goldwater	Scott, William L.	
Hansen		

NOT VOTING—19

Baker	Ford	McGee
Beall	Glenn	McGovern
Bentsen	Hart, Philip A.	Mondale
Brock	Hartke	Montoya
Buckley	Mansfield	Tunney
Cannon	Mathias	
Church	McClure	

So Mr. ROBERT C. BYRD's motion was agreed to.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon S. 2278, the Civil Rights Attorneys' Fees Awards Act of 1975.

Hubert H. Humphrey, Birch Bayh, Quentin N. Burdick, Alan Cranston, Robert C. Byrd, Patrick J. Leahy, William D. Hathaway, Dick Clark, Edward M. Kennedy, James Abourezk, Hugh Scott, Harrison A. Williams, John A. Durkin, James B. Pearson, Bob Packwood, Frank E. Moss, Jacob K. Javits, William Proxmire, Henry M. Jackson, Lowell P. Weicker, Mark O. Hatfield.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

Mr. HUGH SCOTT. Mr. President, I rise in support of S. 2278.

I believe it ranks among the most important measures we will act on this year. Simply stated, S. 2278 is designed principally to allow the courts to award attorneys fees to prevailing plaintiffs in civil rights cases. Such a provision would greatly aid the cause of human rights in this country, would cost the Government nothing, and would make the civil rights laws almost self-enforcing.

If we pass this worthwhile measure, we will do a great service in the continuing battle to eradicate discrimination in the United States. And we will do so without an increase in the Federal budget or in the bureaucracy.

Each of the provisions covered by S. 2278 relies upon private enforcement. Recently, spiraling court costs have created an absolute necessity of attorney's fee provisions in those civil rights statutes which contain citizen suit provisions. Congress should encourage citizens to go to court in private suits to vindicate its policies and protect their rights. To do so, Congress must insure that they have the means to go to court and to be effective once they get there. This is particularly true in the civil rights area, where those men and women whom the laws protect are rarely, if ever, in a financial position to undertake the costly task of enforcement of their rights.

The enactment of S. 2278 is needed to assure that attorney's fees will be available in suits brought under the reconstruction-era civil rights laws, title VI of the 1964 Civil Rights Act, and title IX of the Education Amendments of 1972 in the same fashion and to the same extent as the statutes presently provide in cases brought under title VII of the 1964 Civil Rights Act. Mr. President, as a nation of laws, and as a government of laws, we should welcome citizen suits which succeed in enforcing the laws. Attorney's fees have proven to be a singularly effective and flexible way to encourage private enforcement of public rights, and I strongly urge this body to accept S. 2278.

My one regret is that the distinguished Senator from Michigan (Mr. PHILIP A. HART), who has been at my side so often in the past fighting for the cause of civil rights, cannot be with us for the last battle of this final campaign. His efforts on behalf of the bill earlier in the session proved decisive, however. Without his powerful intellect and moral suasion, the bill would have languished in committee. I know he too joins us in urging its passage.

Mr. MATHIAS. Mr. President, as a supporter of civil rights for all Americans, I support S. 2278, the Civil Rights Attorneys' Fees Awards Act.

The goal of S. 2278 is clear and compelling—to insure that the high cost of litigation does not bar the Federal courts to citizens who seek to enforce their rights under our civil rights laws. By passing S. 2278, the Senate can transform this goal into a reality.

The need for this bill arises from a recent Supreme Court decision which has erected a formidable financial barrier against those seeking access to Federal courts and has consequently dealt a serious blow to the effective enforcement of our civil rights laws. Specifically, in *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975) the Supreme Court held that Congress, not the judiciary, should authorize the award of attorney fees in cases arising under Federal laws. The Court found that in the absence of clear statutory language the courts were powerless to award attorney's fees.

Given the often staggering costs of litigation, this decision has predictably slowed the number of private suits brought to enforce federally mandated rights, including cases premised upon our civil rights laws. Alyeska presented Congress with an opportunity to enact legislation to help insure that one's financial resources need not be a prerequisite to access to Federal court.

I believe that S. 2278 constitutes a much needed response to Alyeska and is necessary to guarantee the proper enforcement of our civil rights laws which the Congress has so earnestly labored for in the past. Unless the Congress enacts S. 2278, one of the groups of potential litigants most severely affected by Alyeska—those persons seeking to assert their rights under Federal civil rights statutes—will frequently be denied access to Federal courts.

Mr. President, we must bear in mind at all times that rights that cannot be enforced through the legal process are valueless; such a situation breeds cynicism about the basic fairness of our judicial system. Consequently, Congress must be vigilant to insure that our legal rights are not hollow ones.

This vigilance is especially important at a time when access of individuals to our Federal courts has been severely limited by several recent Supreme Court decisions interpreting Federal statutes. Mr. Justice Brennan poignantly described in inequities flowing from such restrictive judicial rulings:

A series of decisions have shaped the doctrines of jurisdiction, justiciability and remedy, so as to increasingly bar the federal courthouse door in the absence of showings probably impossible to make. It is true of course that there has been an increasing amount of litigation of all types filling the calendars of virtually every state and federal court. But a solution that shuts the courthouse door in the face of a litigant with a legitimate claim for relief, particularly a claim for a deprivation of a constitutional right, seems to be not only the wrong tool, but a dangerous tool for solving the problem. The victims of the use of that tool are most often the litigants in need of judicial protection of their rights: the poor, the underprivileged, the deprived minorities. The very life blood of courts is the popular confidence that they mete out evenhanded justice and any discrimination that denies these groups access to the courts for resolution of their meritorious claims, unnecessary risks loss of that confidence.

I fully concur with the views expressed by Justice Brennan and I urge my colleagues to keep his eloquent words in mind when considering S. 2278 and related legislation.

Mr. President, I believe that it is incumbent upon Congress to do its part to insure the proper enforcement of our civil rights laws. By providing for reasonable counsel fees to prevailing parties in civil rights cases, the Congress can take a giant step in that direction by minimizing the formidable barrier erected by the Court's decision. I urge my colleagues to act favorably upon S. 2278.

UP AMENDMENT NO. 469

(Subsequently numbered amendment 2347)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 469:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as "The Civil Rights Attorneys' Fees Awards Act of 1976".

SEC. 2. That the Revised Statutes section 722 (42 U.S.C. 1988) is amended by adding the following: "In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, title IX of Public Law 92–318, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

Mr. KENNEDY. Mr. President, I yield for a unanimous-consent request to the Senator from Maine without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE addressed the Chair.

Mr. ALLEN. Mr. President, there will be no unanimous-consent requests granted in the Senate until this matter has been disposed of as long as I am on the floor. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts has the floor.

Mr. KENNEDY. Then, Mr. President,

I ask that Jim Davidson be granted privilege of the floor.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, the purpose of this amendment is rather simple, yet it is important. It has the support of the administration. It is, basically, to conform this legislation to the legislation that is presently before the House. It will thus expedite final enactment of this bill.

Mr. President, the Civil Rights Attorneys' Fees Awards Act authorizes Federal courts to award attorneys' fees to a prevailing party in suits brought to enforce certain civil rights acts. This bill would close a series of loopholes in our civil rights laws created by the Supreme Court's Alyeska decision last year, and would reestablish a uniformity in the remedies available under Federal laws guaranteeing civil and constitutional rights.

The basic principle embodied in this bill is not obscure or novel. The Supreme Court ruled in the Alyeska case that courts may award attorneys' fees to successful litigants only where Congress has specifically authorized "fee-shifting" by statute. Although prior to this decision Federal courts had been awarding fees to successful plantiffs in cases brought under a broad variety of civil rights laws, the Court's Alyeska ruling created enormous incongruities in that private citizens can now afford to seek enforcement of only those civil rights laws which contain explicit provisions for fee-shifting. The result is plain: few private civil rights enforcement actions can now be brought under these Federal statutes not providing for fee awards. The bill before us today would eliminate this anomaly by permitting courts to make discretionary fee awards under all Federal civil rights statutes.

The Senate and House versions of the bill differ in only one substantive respect: in addition to those civil rights statutes included within the coverage of the bill reported by the Senate Judiciary Committee, the House bill includes coverage of title IX of Public Law 92–318, the Education Amendments of 1972. Inclusion of cases brought under title IX would mean that where educational programs which receive Federal assistance discriminate on the basis of sex or blindness, courts would be able to make discretionary awards of attorneys' fees to successful litigants in order to assist private enforcement efforts in this crucial area of the law.

I am therefore offering an amendment in the nature of a substitute to S. 2278, which would confirm the language of the bill precisely to the House bill, H.R. 15460. Inclusion of title IX cases provides a useful improvement in the bill, and one which has the full support of the bill's Senate sponsors. The administration itself also expressed support for this amendment when it was offered during the House Judiciary Committee markup on the bill.

In recent years, there has been a growing recognition that discrimination on the basis of sex is both pervasive and persistent. For that reason Congress has banned sex discrimination in such areas as employment, housing, credit, and, in title IX of the Emergency School Aid Act, education programs or activities which receive Federal assistance. The title is the analog, in the field of education, of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race or sex, they violate fundamental rights which are at the bedrock of our society's notions of fair play and human decency. It is Congress obligation to enforce the 14th amendment by eliminating entirely such forms of discrimination, and that is why both title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 have been included. As basic provisions of the civil rights enforcement scheme that Congress has created, it is essential that private enforcement be made possible by authorizing attorneys' fees in this essential area of the law.

Where title IX is violated by a public school system, section 1983 is also involved, as in *Lau* v. *Nichols*, 414 U.S. 563 (1974). But in many cases title IX involves other situations, for example, a private vocational school receiving Federal assistance which discriminates on the basis of sex in its admissons policy. In these cases, only title IX would reach this pernicious form of discrimination.

Title IX also reaches another pernicious form of discrimination—that against blind people and those who are visually impaired—and in these circumstances the same fundamental principles apply.

Mr. President, the bill now before the Senate addresses the issue of citizen access to the courts in a direct and effective manner. As chairman of the Subcommittee on Administrative Practice and Procedure, I have been concerned with removing legislative and judicial barriers which have the effect of denying citizens full access to the courts in order to secure their legal rights. It is of little moment for the Congress to enact laws expanding the protections afforded citizens in securing jobs, housing, credit, or education without insuring that the beneficiaries of our laws have the means of enforcing compliance with them. Legal battles to vindicate basic human rights—congressionally secured rights—can be as costly as any other form of litigation, and the costs frequently outrun the economic benefits ultimately obtained by successful litigants. Inevitably this leads to the inability of the victims of discrimination to obtain legal redress because they cannot shoulder the full costs of vindicating their rights.

Fee-shifting is a time-honored judicial remedy. And Congress has already provided for recovery of attorneys' fees in over 50 pieces of legislation. Where Congress decides to emphasize certain policies, and correspondingly to secure private rights or encourage more vigorous enforcement of Federal laws, Congress frequently includes fee-recovery provisions in its enactments. An attorneys' fees provision was most recently included for example, in the Hart-Scott-Rodino Antitrust Improvement Act for injunctive actions brought under the Clayton Antitrust Act.

I believe that it is especially important that the availability of fee awards be expanded to encompass all major Federal civil rights laws. Not just a select few—chosen through historical accident—but all the civil rights laws of this country must be complied with. Long experience has demonstrated, however, that Government enforcement alone cannot accomplish this. Private enforcement of these laws by those most directly affected must continue to receive full congressional support. Fee shifting provides a mechanism which can give full effect to our civil rights laws, at no added cost to the Government.

Mr. President, while I hope this bill can be passed by both Houses and signed into law before Congress adjourns, I think it is important that we realize that our efforts to improve citizen access to the courts will not end with the enactment of this legislation. Earlier this year the Judiciary Committee reported S. 2715, which would authorize, among other things, awards of attorneys' fees in judicial actions for review of certain Federal administrative decisions. While I do not anticipate that the Senate will be able to act on this bill before the end of this session, I consider it to be essential to Congress' overall effort to involve citizens in the enforcement of our laws, and I intend to press for prompt Senate action in the next session.

The bill now before us, Mr. President, does not create any new legal remedies, nor does it expand our civil rights laws into new areas which Congress has not previously considered. It merely lends substance to the private enforcement of rights already authorized under existing civil rights laws.

Furthermore, the bill will not create any new burdens for the courts. Rather, it is intended simply to expressly authorize the courts to continue to make the kinds of awards of legal fees that they had been allowing prior to the Alyeska decision.

It is a fundamental axiom of law that where there is a right the law should provide a remedy. Yet, without a provision to permit awards of attorneys' fees to successful parties, the rights secured by those civil rights laws covered by this act are hollow rights indeed. Enactment of this legislation would do much to assure all the citizens of this Nation that the words "equal protection of law" mean what they say, and that Congress firmly intends that all our civil rights laws be vigorously enforced.

Mr. President, I do not intend to spend any more time discussing this particular amendment because it is well understood. It involves issues the Senate has acted on it in the past.

It does seem to me to be an extremely important amendment. It will expedite the passage of this legislation. It does have the support of the administration. I am very hopeful it will be accepted here this afternoon.

The PRESIDING OFFICER. The question is on the adoption——

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, may I inquire of the Chair if this is a printed amendment or if this is an unprinted amendment?

The PRESIDING OFFICER. It is an unprinted amendment.

Mr. ALLEN. I wonder if copies might be made available to Senators.

The PRESIDING OFFICER. A copy will be provided to the Senator.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I am delighted to find the distinguished Senator from Massachusetts (Mr. KENNEDY) acting as floor leader for the administration with respect to this particular amendment.

It is interesting that he would represent the administration on the floor of the Senate. It is interesting to see he is doing that.

I am interested to see that his views correspond with the views of the administration with respect to this particular subject.

Mr. President, this Congress may well go down in history as the Congress that provided more bonanzas to the legal profession than any other Congress in history.

We have already passed antitrust legislation which provides that the attorneys general of the various States may farm out these antitrust cases to attorneys of their choice as political favors, if they so desire, and I assume they would, and, in some cases, treble damages are available.

Mr. President, inasmuch as we did not accept the House language with respect to banning contingency fees, these attorneys can collect, these favored few can collect, in some cases—and it is not beyond the realm of the possible—literally millions of dollars for their services. Here, again, we are providing not one single additional substantive civil right or the enforcement of one single civil right provision but are, instead, providing for attorney fees in civil rights cases, attorney fees to be set by the court.

Frankly, Mr. President, I do not know what has happened to this idea from the time it was considered by the Subcommittee on the Representation of Citizen Interests of the Judiciary Committee in 1973. According to the committee report, this matter was considered in 1973.

If it was such a good idea, Mr. President, it seems to me that the Senate would have been called upon to act on it before now; 1973 was the last Congress. Apparently nothing happened to the bill in the last Congress. It does not say that the Judiciary Committee ever reported it after the subcommittee studied it. If it was such a great idea, I wonder why it did not get out of the Judiciary Committee back in 1973 to come to the Senate floor. There must have been some good reason because I am sure there were plenty of advocates to the legislation.

I am wondering if a person advocating this legislation is interested in civil rights or if he is interested in attorney's fees.

Mr. President, I am a member of the legal profession, having been admitted to the bar in Alabama in 1935. When I came to the Senate I ceased all law practice, directly and indirectly, with the exception of the fact that I have, on occasion, filed amicus curiae briefs in the Supreme Court on matters affecting the well being of the people of the State of Alabama. But I still retain my high regard, my deep interest, in the legal profession and in the welfare of the legal profession. I like to see lawyers make fees. I have absolutely no objection to that. I want to see it.

Mr. President, I do not see any reason for bringing up a Senate bill which was considered by the subcommittee back in 1973. I do not have the record of what happened to it in the committee. I am going to try to find out if it was defeated in the committee. In 1973 it was passed out of the subcommittee of the Judiciary Committee. It has not arrived on the floor from 1973 until this very day, unless I am mistaken. I do not see any indication that it has. I am sure if it has arrived, I will be corrected in time.

Mr. KENNEDY. If the Senator will yield at that point——

Mr. ALLEN. No, I do not yield. The Senator will have an opportunity to speak.

Mr. KENNEDY. If the Senator does not want to yield for a question, I will wait.

Mr. ALLEN. Very well, I will yield for a question.

Mr. KENNEDY. Was this the same provision included in the voting rights of 1975 which passed the Judiciary Committee and actually came before the Senate?

Mr. ALLEN. I am talking about this bill. It was never considered on the Senate floor.

Mr. KENNEDY. It was passed out of the Judiciary Committee and included in the Voting Rights Act of 1975.

Mr. ALLEN. It never came out on the floor here.

Mr. KENNEDY. The Senator is not correct. It was included in the Voting Rights Act and it passed the Judiciary Committee. It was not enacted as part of the final Voting Rights Act because the Senate actually accepted the House provisions. But I think it is quite clear that it was already considered in the Judiciary Committee.

Mr. ALLEN. The Senator answers his own question. What the Senator from Alabama said was that this bill had never been considered on the Senate floor. The Senator from Massachusetts has added no information contrary to that. He states that this provision was in the Senate bill which passed the Judiciary Committee, not in a separate bill, but he also says that the Senate did not consider that bill and instead considered the House bill.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. ALLEN. For a question.

Mr. KENNEDY. The record of the previous discussion was the point where the Senator said that it was considered in the Senate Committee on the Judiciary, that it passed the Senate Committee on the Judiciary and it was reported. The Senator is correct that it was not considered on the floor because the Senate considered the House-passed bill.

The record will show whether the Senator stated that or whether the Senator said that the Senate Committee on the Judiciary did not consider it.

I am correcting the Senator's suggestion that the Judiciary Committee did not consider it. It did consider it. It did report it and it did feel that it was a good idea at that particular time.

Mr. ALLEN. In answer to what the Senator from Massachusetts said, the Senator from Alabama said that this bill, apparently, and I am referring to the committee report, was not acted upon by the full committee. I will stand by that and back it up with this committee report from the Senator's own committee, the Committee on the Judiciary.

He is saying that this was a provision in another bill having to do with an entirely different matter. I had stated that it was never acted upon here on the Senate floor. It was never considered here on the Senate floor. I will stand by that statement. The Senator has not produced any evidence that the bill or this provision was ever considered on the Senate floor.

Now, Mr. President, if it was reported by the Senate Committee on the Judiciary and it was so important, why did the Senate not act on it? It seems like a pretty easy bill to bring up. All they have to do is put in a nondebatable motion that it come up and it will. So here it is.

This bill apparently laid dormant from the subcommittee hearing in 1973 until it was passed in this Congress, but had never before been considered, before today here on the floor of the Senate, from 1973 on.

This particular provision, Mr. President, the Senator says was in another bill. Well, that bill, though reported out of the Committee on the Judiciary, has never been considered on the Senate floor. So if it is such a great bill, if it is an idea whose time has come, if these attorneys need their fees, I guess they needed them back in 1973, and they needed them in 1974, and they needed them in 1975, and they needed them in the first 8 months of 1976; but nothing was done to help these poor attorneys under that bill. No action on the Senate floor.

Advocates of the bill having full control of the Senate machinery, advocates of the bill having full control of the committee system, advocates of the bill having a topheavy vote on bringing the matter up, why has it not been considered on the Senate floor, if it is so great? That is what puzzles the Senator from Alabama.

So now, Mr. President, as the Senate is supposed to be racing toward adjournment on October 1 or October 2, here we are, taking up the time of the Senate and taking up the time of Congress on a Senate bill that I assume will go to a committee over in the House of Representatives after it passes here. I assume it will, though they seem to have a way of short-cutting committees when they want to. I assume this matter will go to a committee over there, and maybe they will have an amendment, and it may go to conference. But how are we going to work all those things in, in the short time that remains to the Senate on this matter?

Also, if it was such an important bill, I wonder why the author of the bill is not here to vouch for the bill, and why it

is necessary for him to pass the mantle of leadership on this important attorneys' fees bill over to the distinguished Senator from Massachusetts, who also is a lawyer, as is the distinguished Senator from California (Mr. TUNNEY).

You know, Mr. President, I kind of hate to embarrass the distinguished Senator from California (Mr. TUNNEY) by bringing this bill up in his absence. I just do not feel that the proponents of the bill should have embarrassed our good friend from California, who is in a life-and-death struggle out in California to retain his seat. But I predict that before this bill is passed—and it will be several days before it passes, I assure the Senate—before this bill passes, the distinguished Senator from California (Mr. TUNNEY) will show up to make a speech in behalf of his brother attorneys, because mistake it not, this is a lawyers' bill.

I hazard the guess that they are not satisfied with the action by Congress in providing windfalls in the tens of millions of dollars for the bar throughout the 50 States of the Union under the antitrust bill. They are not content with that, Mr. President. They come forward and say, "Oops, the Supreme Court has said that in many cases attorneys' fees in civil rights cases are not allowed. We have got to do something about that."

That is what the Supreme Court said. The Supreme Court held, in the case mentioned by the distinguished Senator from Massachusetts, the Alyeska case, that the courts do not have the power under their equity powers to grant attorneys fees in cases unless there is a specific authorization by Congress for such fees to be paid.

Mr. President, you can imagine the consternation that this ruling by the Supreme Court caused in legal circles. "Why, the Supreme Court says we can't collect attorneys' fees when we prosecute civil rights cases." I do not know that these attorneys came to be sponsors of this legislation here in the Senate. They said, "We have got to straighten this out; we have got to make provision for attorneys' fees." There is not one single additional civil rights protection in this measure; so what is the concern? Is the concern for protecting civil rights, or is it for protecting the fees of attorneys, who have grown fat on litigation of this sort?

Mr. President, there is a term in the law or a word in the law called "barratry." That is a word that is applied to the stirring up of litigation.

Mr. President, barratry is unethical if not illegal. So we might conclude, Mr. President, that this bill would constitute, if there could be such a designation, legal and ethical barratry, if that were not a contradiction in terms, which it is. This bill would stir up litigation, because, with all due respect to my brothers at the bar, the average attorney is not going to work up too much enthusiasm about bringing a civil rights case unless he sees a prospect of obtaining a fee.

There are organizations that in many cases do good work in furnishing legal counsel. The Civil Liberties Union has made a notable contribution in furnishing counsel unpaid by the litigant in many areas where the legal rights of an individual are being trampled upon. But here, Mr. President, we have a bill whose sole purpose is to provide attorneys fees for attorneys who file suits under the various sections mentioned in the bill.

So, I do not believe this bill for the aid of attorneys ought to be taking up the important time of the Senate. Let us let them suffer along for a few months. We will have another Congress convening January 3. I do not know, though, whether this measure will fair so well in another Congress or not.

I do not propose to predict the outcome of the November Presidential election, but if the Democratic candidate should be elected—and the chances are that he will—I do not know whether he would look with such great favor on a bill providing attorney's fees for lawyers. One of his standard statements, in identifying himself at speeches that he has made from time to time, is that he is these various things—these various things being a peanut farmer and a Christian. He is not a lawyer, though, he is quick to emphasize. So I do not know what the Democratic candidate thinks he might gain from saying he is not a lawyer, unless there are many who feel that lawyers are able to take care of themselves, and it is my observation that they are. I do not believe we need this legislation that would add more areas open for attorneys fees.

We have not had an explanation of the bill, Mr. President, of course. It was immediately brought up. There was not one word of explanation about it. There is an amendment, I guess a substitute. I have not had an opportunity to examine it too closely. Yes, it is a substitute, and, of course, it will wipe out the provisions of the other bill.

But there has been not one word of explanation about the bill—not one. There has been scant explanation of the substitute. Then it is up for a quick vote unless someone should see fit to address some remarks with respect to the bill.

I might state, also, that since this is a substitute, if it should be adopted—and it looked as if it were pretty well on track to be adopted—it would cut the Senate off from any amendment whatsoever on this bill. There would be no further amendments. Ram it through. Take care of the attorneys. Add no more civil rights. Protect no more civil rights. Only see that the attorneys get paid. That is what this bill does. And here we are in the Senate considering a bill to provide attorneys fees for attorneys.

Mr. President, there are a number of provisions now under which attorneys fees can be paid. As a matter of fact, I see here at the bottom of page 3 of the report that the last two lines has this interesting sentence:

> Since 1964 every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

Mr. President, if that be true, why are we working on this? I am simply taking the Committee on the Judiciary at its word. They prepared the report. I did not.

But the report says:

> Since 1964 every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

So there is not one word of explanation of what civil rights provisions do not have attorneys fees attached to them, and the very wording of the committee report on this very bill—it is not on something else—says that

> . . . every major civil rights law passed by the Congress has included or has been amended to include one or more fee provisions.

That being true, what is the need of this bill? It provides attorneys fees for every civil rights law that has passed since 1964. How much farther back need you go? That is when the great breakthrough came—in 1964.

And it gives some examples of these acts that do have attorney's fees, but I am relying on this statement in the Judiciary Committee report that all of these civil rights laws, all the major ones, passed since 1964 have fee provisions attached.

That being true, what is the need of this bill?

At the top of page 4 they give some specific examples, without limiting the generality of the other statement which says "All major civil rights laws when passed had attorney's fees provided, or were later amended to provide attorney's fees," then, as I say, without limiting the generality of that statement, they give examples of some of the civil rights laws that do have attorney's fees attached.

I note that throughout all the bills of this type, very high in the priority of those pushing bills of this sort is that there be a provision for paying attorney's fees. Let us take care of the attorneys. Civil rights take care of themselves. Let us take care of the attorneys. That is what this bill does. Let us see some of the acts that the Judiciary Committee says have attorney's fees.

They say that title VIII of the Civil Rights Act of 1968, codified in 42 U.S.C., section 3612(c), has attorney's fees attached. Then the Emergency School Aid Act of 1972, which is codified in 20 U.S.C., section 1617, has attorney's fees attached. Then Equal Employment Amendments of 1972, codified in 42 U.S.C., section 2000 (e) 16(b) has attorney's fees. Then there is the Voting Rights Act Extension of 1975, 42 U.S.C., section 1973(e). Those laws specifically have attorney's fees provided.

However, the report, itself, says that all major civil rights acts have attorney's fees attached. What do we conclude from that? Also, what is a major civil rights law and what is a minor civil rights law? If, as the Judiciary Committee on the report says, every major civil rights law passed by Congress has included or has been amended to include one or more fee provisions and they are bringing in another bill, I would have to assume from that, by a process of reasoning, by a process of logic, by use of a syllogism, that this bill must refer—in the language, not of the Senator from Alabama, but in the language of the Committee on the Judiciary—to minor civil rights laws. It said that all major civil rights laws have that attached. So what is a minor civil rights law?

I do not regard any civil rights law as being minor. It has to do with the rights of an individual, the rights to equal protection under the law. It is a major civil rights. There are no minor civil rights. I will have to disagree with the Judiciary Committee in apparently branding the civil rights referred to in these sections as minor civil rights. That does not follow the reasoning of the Senator from Alabama.

The Senate has voted to proceed to the consideration of this bill by a top-heavy vote. Having done so, it is going to continue to stay on this bill. I say to the distinguished Senator who made the request a moment ago that as soon as the Senator from Alabama sits down, it would not take unanimous consent to bring up a House message. He could call it up and move——

Mr. PASTORE. Not while the Senator is on his feet.

Mr. ALLEN. I stated that as soon as the Senator from Alabama gives up the floor, he could comply with the request of the distinguished Senator.

Mr. PASTORE. I do not have to be told that.

Mr. ALLEN. That being the case, we will not worry about it.

Mr. PASTORE. I was only asking for a courtesy. I know the rules.

Mr. ALLEN. I thank the Senator. I want to accommodate him, but apparently he does not want to be accommodated.

Mr. President, what we are dealing with here—and I am somewhat in the dark, because there has been no explanation given as to the thrust of this bill, other than that it provides attorneys' fees in civil rights cases—is that, somewhere along the line, I would like the proponents of the bill to explain what minor civil rights are involved in the bill, inasmuch as the report says that all major civil rights laws passed by Congress have included a fee provision. So somewhere along the line, I assume, Mr. President, we will find out.

At this time, I move to table the substitute offered by the distinguished Senator from Massachusetts (Mr. KENNEDY), and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second There is not a sufficient second.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. ALLEN. I object.

The PRESIDING OFFICER (Mr. ABOUREZK). Objection is heard.

Mr. KENNEDY. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of the absent Senators.

Mr. ALLEN. The motion is out of order, Mr. President.

The PRESIDING OFFICER. Until the rollcall is completed, that motion is out of order.

The clerk will continue to call the roll.

The assistant legislative clerk resumed and completed the call of the roll and the following Senators answered to their names:

[Quorum No. 42 Leg.]

Abourezk	Kennedy	Percy
Allen	Leahy	Stennis
Bayh	Muskie	

The PRESIDING OFFICER. A quorum is not present.

The Clerk will call the names of the absent Senators.

Mr. KENNEDY. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Does the Senator make a motion to instruct?

Mr. KENNEDY. I move that the Sergeant at Arms be instructed to request the presence of the absent Senators. I ask for the yeas and nays.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

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

The result was announced—yeas 79, nays 3, as follows:

[Rollcall Vote No. 614 Leg.]

YEAS—79

Abourezk	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart, Gary	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatfield	Pastore
Biden	Hathaway	Pearson
Brooke	Helms	Pell
Bumpers	Hollings	Percy
Burdick	Hruska	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Inouye	Roth
Chiles	Jackson	Schweiker
Clark	Javits	Scott, Hugh
Cranston	Johnston	Scott, William L.
Culver	Kennedy	Sparkman
Curtis	Laxalt	Stafford
Dole	Leahy	Stennis
Domenici	Long	Stevenson
Durkin	Magnuson	Symington
Eagleton	Mathias	Stone
Eastland	McClellan	Taft
Fannin	McClure	Talmadge
Fong	McIntyre	Thurmond
Garn	Metcalf	Tower
Gravel	Morgan	Williams
	Moss	Young

NAYS—3

Allen	Goldwater	Weicker

NOT VOTING—18

Baker	Ford	McGovern
Beall	Glenn	Mondale
Brock	Hart, Philip A.	Montoya
Buckley	Hartke	Stevens
Cannon	Mansfield	Symington
Church	McGee	Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. ABOUREZK). A quorum is present.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. I have an amendment at the desk.

The legislative clerk resumed calling the roll.

Mr. ALLEN. I have an amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The rollcall is in progress.

The legislative clerk resumed calling the roll.

The PRESIDING OFFICER. The clerk will suspend until there is order in the Senate Chamber.

I ask Senators—the Senator from Maine and the Senator from Iowa—I am going to ask for order in the Chamber and the clerk will suspend the rollcall until order is achieved.

Mr. NELSON. Mr. President, the Senators obviously have not been able to hear the Chair, to have order in the Senate.

The PRESIDING OFFICER. The point of the Senator from Wisconsin is well taken. Would the Senate please come to order? Would the Senate show the courtesy to the other Senators who would like to vote and have their vote recorded?

The clerk will not proceed until order has been achieved in the Chamber.

The clerk may proceed.

The legislative clerk resumed and concluded calling the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the

Senator from South Dakota (Mr. McGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

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

The result was announced—yeas 25, nays 57, as follows:

[Rollcall Vote No. 615 Leg.]

YEAS—25

Allen	Garn	McClure
Bartlett	Goldwater	Nunn
Bellmon	Hansen	Scott, William L.
Byrd, Harry F., Jr.	Helms	Stennis
Curtis	Hruska	Talmadge
Dole	Johnston	Thurmond
Eastland	Laxalt	Tower
Fannin	Long	Young
	McClellan	

NAYS—57

Abourezk	Hart, Gary	Packwood
Bayh	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Biden	Hollings	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Case	Javits	Roth
Chiles	Kennedy	Schweiker
Clark	Leahy	Scott, Hugh
Cranston	Magnuson	Sparkman
Culver	Mathias	Stafford
Domenici	McIntyre	Stevenson
Durkin	Metcalf	Stone
Eagleton	Morgan	Symington
Fong	Moss	Taft
Gravel	Muskie	Weicker
Griffin	Nelson	Williams

NOT VOTING—18

Baker	Ford	McGee
Beall	Glenn	McGovern
Brock	Hart, Philip A.	Mondale
Buckley	Hartke	Montoya
Cannon	Haskell	Stevens
Church	Mansfield	Tunney

So the motion to lay on the table was rejected.

GOLD LABELING ACT OF 1976

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3095.

The PRESIDING OFFICER (Mr. PACKWOOD) laid before the Senate the amendment of the House of Representatives to the bill (S. 3095) to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

(The amendment of the House is printed in the House proceedings of the RECORD of September 20, 1976.)

Mr. ALLEN. I object to its consideration, Mr. President.

The PRESIDING OFFICER (Mr. PACKWOOD). Objection does not lie.

Mr. ALLEN. Objection lies to proceeding.

The PRESIDING OFFICER. Under rule VII, the Chair has the right to lay before the Senate at any time a message from the House of Representatives.

Mr. ALLEN. Yes, but I object to proceeding with its consideration.

The PRESIDING OFFICER. Objection to proceeding is heard.

Mr. PASTORE. Mr. President, a parliamentary inquiry. What is the decision of the Chair?

The PRESIDING OFFICER. Will the Senator withhold his inquiry for a moment?

The ruling of the Chair is that it is in order to move to concur in the House amendment, upon objection, after the Senate, on motion, has proceeded to its consideration.

Mr. PASTORE. I so move.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. PASTORE. I move to concur in the House amendment.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

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

The result was announced—yeas 79, nays 0, as follows:

[Rollcall Vote No. 616 Leg.]

YEAS—79

Abourezk	Eagleton	Long
Allen	Eastland	Magnuson
Bartlett	Fannin	Mathias
Bayh	Fong	McClellan
Bellmon	Garn	McClure
Bentsen	Gravel	McIntyre
Biden	Griffin	Metcalf
Brooke	Hansen	Morgan
Bumpers	Hart, Gary	Moss
Burdick	Haskell	Muskie
Byrd, Harry F., Jr.	Hatfield	Nelson
Byrd, Robert C.	Hathaway	Nunn
Case	Helms	Packwood
Chiles	Hollings	Pastore
Clark	Huddleston	Pearson
Cranston	Humphrey	Pell
Culver	Jackson	Percy
Curtis	Javits	Proxmire
Dole	Johnston	Randolph
Domenici	Kennedy	Ribicoff
Durkin	Laxalt	Roth
	Leahy	Schweiker
Scott, Hugh	Stennis	Thurmond
Scott, William L.	Stevenson	Tower
Sparkman	Stone	Weicker
Stafford	Symington	Williams
	Talmadge	Young

NAYS—0

NOT VOTING—21

Baker	Glenn	McGee
Beall	Goldwater	McGovern
Brock	Hart, Philip A.	Mondale
Buckley	Hartke	Montoya
Cannon	Hruska	Stevens
Church	Inouye	Taft
Ford	Mansfield	Tunney

So the motion to concur was agreed to.

Mr. PASTORE. Mr. President, this is a very simple matter to explain. As a matter of fact, it has nothing at all to do with the controversy that we had on the bill previous to this.

This is a message from the House. This has to do with the stamping of gold, not only to help the consumer but also, at the same time, to assist us in the export of our American products.

Today, if you mark a piece of jewelry "14 carat," under existing law, if it is 13 carat actual gold content it still would be legal to affix the 14-carat label.

This bill provides that where the gold item of jewelry is unsoldered, it must be no more than 3 parts per 1,000 less than the marking; and if it is soldered, it must be within 7 parts per 1,000 of the marked carat amount. This change will assist the American industry to meet the requirements of foreign countries, thereby enhancing our foreign exports.

We passed this bill in the Senate. It went to the House, and they revised it only in writing style. In other words, where we rewrote the entire section of the original act, they merely inserted these new levels of tolerance after striking the existing levels in the 1906 law. But it is substantially the same bill.

I hope we will not have a fracas over this, and I hope we will pass it.

At this time, I ask unanimous consent that my complete explanation be placed in the RECORD, and I will answer the questions of anyone who is curious or inquisitive.

Mr. ALLEN. I object.

Mr. PASTORE. Object to what?

The PRESIDING OFFICER. The Senator from Alabama objects to what the Senator from Rhode Island wants inserted in the RECORD.

Mr. PASTORE. The Senator does not want an explanation?

Mr. ALLEN. I announced——

Mr. PASTORE. Give it back to me. I will read it.

Mr. President, this bill is designed to increase consumer protection and foster competition by domestic manufacturers of gold articles in international markets, by reducing the tolerances permitted by the National Gold and Silver Stamping Act of 1906. The 1906 act requires that any article of merchandise made in whole or in part of gold or silver, which is shipped in interstate commerce, must be properly marked as to its actual fineness. A tolerance is permitted for articles without solder and 1 full carat for articles with solder. The proposed legislation would reduce these tolerances to 3 parts per 1,000 for articles without solder, and to 7 parts per 1,000 for articles with solder. Three parts per thousand is equiv-

alent to approximately one-fourteenth carat and 7 parts per 1,000 is equivalent to approximately one-seventh carat.

In order to enable manufacturers to accommodate this change, the requirements would not become effective for 5 years.

Near the turn of the century, the manufacturers of gold and silver products sought legislation to enable consumers to purchase manufactured articles with some measure of certaintly. The 1906 act requires that articles of gold and silver which are identified by a carat mark of fineness guaranty meet certain standards. The tolerances permitted for gold are one-half carat for gold articles without solder and 1 full carat for gold alloys with solder. For example, a 14-carat gold mark can be placed on a soldered jewelry article that is only 13 carats gold—7 percent less gold than the mark indicates. If the article stamped 14 carat has no solder, it can contain as little as 13½ carats gold—3.5 percent less than the mark indicates.

Mr. MATHIAS. Mr. President, will the Senator please use his microphone? [Laughter.]

Mr. PASTORE. I can do just as well with or without. [Laughter.]

With technological advances, it has become apparent that the liberal gold tolerances permitted by the National Gold and Silver Stamping Act are no longer necessary from a technical viewpoint. An additional concern has been that certain foreign markets have been closed to domestic manufacturers of gold articles. Countries such as France and Switzerland have close controls on gold articles entering the country and permit considerably smaller tolerances than permitted under the 1906 act. As the Department of Commerce noted in a memorandum of July 30, 1975, entitled "Exportation of U.S. Manufacturer Carat Gold Jewelry"—

Amending the National Gold and Silver Stamping Act to permit a smaller deviation from the carat standard and to provide for enforceable penalties against violators would result in greater acceptance of U.S. gold jewelry in European countries and worldwide. Exports would increase over time.

I introduced this bill on March 9, 1976, and the Committee on Commerce held hearings on the bill on March 24, 1976. Subsequently, it was reported by the committee and passed the Senate by unanimous consent on May 13, 1976. In the House, the Committee on Interstate and Foreign Commerce held hearings on June 29, 1976, and the bill was subsequently reported and passed by the House yesterday.

The House amendment is purely technical in nature and reflects merely a different drafting style than the bill as passed by the Senate. There are no substantive differences between the House and Senate bills. It is purely a question of drafting.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The motion already has been agreed to.

Mr. PASTORE. I want to thank the Senator from Alabama.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT

The Senate continued with the consideration of the bill (S. 2278) relating to the Civil Rights Attorneys' Fees Awards Act of 1975.

UP AMENDMENT NO. 470

Mr. HELMS. Mr. President, I call up an unprinted amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 470 to the amendment of Mr. KENNEDY numbered 469.

The amendment is as follows:

SEC. 3. The Congress finds that serious inequities and inequalities exist between—

(1) the Federal Government; and

(2) individuals, companies, unions, other organizations and State and local governments in terms of the relative ease with which each is able, without economic hardship, to prevail or secure vindication in civil and criminal actions in the courts and in administrative proceedings. It is the purpose of the Congress in this Act to diminish these inequities and inequalities by providing for the payment by the United States of attorney fees, expert witness fees, and other costs in specified situations.

SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Attorney and witness fees and costs

"(a) Except as otherwise provided by subsections (b) and (c) of this section and in section 2678 of this title, a judgment for costs, as specified in section 1920 of this title (but not including the fees and expenses of attorneys), may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action.

"(b) A judgment for costs as specified in section 1920 of this title, for the reasonable expenses of any witnesses or expert witnesses, for the reasonable cost of any studies analyses, engineering reports, tests or projects which the court finds necessary to litigation of the action and for a reasonable attorney fee, based upon the actual time expended by any attorney of a party and his or her staff in advising and representing a party (at prevailing rates for such services, including any reasonable risk factor component), may be awarded to any party, other than the United States or any agency or official thereof, who prevails in any civil action including an action for judicial review of agency action brought by or against the United States or any agency or official thereof in any court having jurisdiction of such action.

"(c) In actions, including actions for judicial review of agency action, instituted by or against the United States or any agency or official thereof, in which a party other than the United States or any agency or official thereof—

"(1) prevails partially, such party may be awarded a judgment for costs and fees, as specified in subsection (b), to the extent to which he prevails.

"(2) does not prevail, such party may be awarded a judgment for costs and fees, as specified in subsection (b), in any case in which such an award would be in the interests of justice.

"(d) Any amount awarded for costs and fees shall be in addition to the compensation, if any, awarded in any judgment.

"(e) A judgment for costs and fees shall be paid in the form and manner provided, in sections 2414 and 2517 of this title, for the payment of judgments against the United States.".

(b) The analysis of chapter 161 of title 28 of the United States Code is amended by amending the item relating to section 2412 of said title to read as follows:

"2412. Attorney and witness fees and costs.".

SEC. 5. Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:

"(a) Any final judgment and any final judgment for costs and fees which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".

SEC. 6. Section 2678 of title 28, United States Code, is amended to read as follows:

"(a) If any judgment is rendered, or if any settlement, award, compromise or recommendation in favor of any party other than the United States is made, after the United States or a Federal agency has received notice that a party has retained a specified attorney, such party shall be awarded a reasonable attorney's fee, based upon the actual time expended by such attorney and his or her staff in advising and representing such party (at prevailing rates for such services, including any reasonable risk factor component) and all costs (including witness fees, studies, analyses, engineering reports, tests and projects) necessary to litigation. In any other case, the court may award such costs and fees as are, in its discretion, in the interests of justice.

"(b) Any amount awarded under this section for costs and fees shall be in addition to the compensation awarded in any judgment, settlement, award, compromise, or recommendation.".

SEC. 7. (a) Subchapter I of chapter 5 of title 5 of the United States Code is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) A party other than the United States or any agency or official thereof participating in an agency proceeding shall be granted by the agency conducting the proceeding and said agency may pay, an award for fees and costs incurred in order to participate in the proceeding if:

"(1) said party is successful in his defense against imposition of a sanction;

"(2) in a proceeding in which the agency is a moving party, he is successful in opposing issuance of an order, or in proposing an amendment to an order, which—

"(A) affects the freedom of said party;

"(B) withholds relief from said party;

"(C) imposes a penalty or fine on said party;

"(D) requires the destruction, taking, seizure or withholding of property of said party;

"(E) assesses damages, reimbursement, restitution, compensation, costs, charges, or fees against said party;

"(F) requires, revokes, or suspends a license of said party; or

"(G) otherwise compels or restricts said party; or

"(3) a review or appeal is determined substantially in favor of the party which appeals a decision or which is subject to the decision reviewed.

"(b) As used in subsection (a) of this section, an 'award for fees and costs' shall include the reasonable expenses of witnesses and expert witnesses and the reasonable cost of any studies, analyses, engineering reports, tests, or projects necessary to determination of the proceeding together with a reasonable attorney's or agent's fee based upon the actual time expended by such attorney or agent and his or her staff in advising or

representing a party (at prevailing rates for such services, including any reasonable risk factor component).".

(b) The analysis of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

SEC. 8. (a) Chapter 201 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3013. Fees and costs of defendants

"(a) A defendant in a criminal case shall be granted by the court having jurisdiction of the case and the United States may pay, an award to compensate said defendant for the reasonable attorney fees and costs incurred by him in his defense against a charge at trial and on any appeals if:

"(1) said defendant pleads not guilty to said charge and

"(A) said defendant is found not guilty, or

"(B) the charge against said defendant is dismissed; or

"(2) said defendant is found guilty at trial and said finding is set aside on appeal.

"(b) No award shall be made pursuant to paragraph (2) of subsection (a) of this section unless the prosecution certifies to the court that no further appeal will be made or unless the time for further appeal has expired.

"(c) No award shall be made except on motion of the defendant with notice to the prosecution.".

(b) The analysis of chapter 201 of title 18, United States Code is amended by adding at the end thereof the following new item:

"3013. Fees and costs of defendants.".

Mr. HELMS. Mr. President, this amendment would grant successful litigants in civil cases or agency hearings against the Federal Government, and acquitted criminal defendants, the right to an award of legal fees and other expenses incurred in preparing and pursuing the litigation or the defense against prosecution for a Federal crime.

Mr. President, this amendment, in the main, is quite similar in its thrust to S. 2871, introduced by the able Senator from New York (Mr. BUCKLEY) on January 26 of this year. There have been some modifications, which will be obvious to Senators comparing the two pieces of legislation.

It is my feeling that this legislation is necessary in order to combat the growing tendency of escalating legal costs to deter Americans from enforcing and defending their legal rights against the U.S. Government in the Federal district courts.

There is no question but that the Federal Government today possesses an institutional power comparable to no other in our society. It spends more than $370 billion annually, which constitutes more than one-quarter of the Nation's total annual expenditures. The Federal Government employs millions of persons, among whom are thousands of lawyers assigned to enforce and defend the often lengthy arbitrary regulations and rulings of hundreds of Federal departments and agencies.

The annotated laws of the United States take up dozens of thick volumes. Furthermore, the Federal Government's departments, agencies, and bureaus profound regulations which are counted in the hundreds of thousands, mandating such disparate requirements as product safety standards, affirmative action programs, marketing practices, and so forth.

Concurrent with the growth of Government, there has grown up a feeling of helplessness among a large portion of the population. People do not know how to cope with an institution the size and complexity of which is so great that, literally, no one can come to terms with it. Whether one is involved with a question regarding social security entitlement or a highly technical income tax regulation, or complex antitrust practices, or welfare regulations, or the withholding of categorical grant formula funds, or Government contract disputes many of which have nothing to do with the commercial terms of the contract—there is literally almost no limit to how, where, and why a private party, State or local government, a labor organization, or a business corporation might find itself confronted with the realization that the only practical way to protect one's rights under the law is to go to court. The consequences of such a dilemma are that in the usual case, an aggrieved party has to weigh the high cost of litigation against the value of the rights to be protected. In far too many cases, a party will knuckle under a Federal order he knows to be wrong because he cannot afford the cost of taking the matter to court. In the case of a private citizen it is only the most wealthy who could even begin to contemplate the possible costs. State and local government, and therefore taxpayers, normally operate on tight budgets, as do labor organizations and business corporations. However, the Federal Government is not under similar constraints. Normally, the agency or bureau is funded to bring suits, to enforce the laws, to implement social policies. The imbalance is clear.

This problem is exacerbated by the fact that the income and assets of the private litigant, that is to say, the average American citizen—and a defendant's ability to defend himself with such assets is extremely limited and therefore the individual citizen can be subject to a war of attrition on the part of a determined Federal bureaucracy. Justice for the citizen requires that the cost of securing justice not outweigh the value against the Government. It is important, also, that the expense of correcting error on the part of the Government—a task which could have wide-ranging beneficial implications for other Americans—not rest wholly on the party whose willingness to go to court has helped define the limits of Federal authority.

This proposal for awarding legal fees and costs in civil actions applies to all actions in which the United States or an agency or official is a party, including tort claims and judicial reviews of agency actions. Awards of fees and costs may be made by courts in favor of parties prevailing over the Government in actions instituted or defended by the Government. If the private party prevails partially, he must be awarded an amount for fees and costs incurred by him in the action commensurate with his success. In cases in which the private party fails, he may be awarded fees and costs when it is in the interest of justice. No provision is made for a maximum limit on awards, or for denying or decreasing awards to prevailing parties. The costs subject to an award are elaborated in the amendment and the criteria for fees are delimited; fees and costs are subject to the overriding consideration of reasonableness.

The provision regarding fees and costs of parties in agency proceedings is intended to provide for reimbursement to persons who initiate such proceedings in order to compel recognition of a right which is denied to them by the agency either directly or indirectly. Also benefitted are those parties who must participate in a proceeding in order to defend a vested right against either direct or indirect agency infringement. Only those parties who are placed in the situation of being an adversary of an agency are eligible for awards of fees and costs. The fees and costs of intra-agency reviews and appeals of decisions may be awarded if those proceedings culminate in a holding in favor of a private party, along with fees and costs of proceedings prior to review or appeal. Again, awards of fees and costs are governed by the criterion of reasonableness. Items to be included in awards are elaborated in the bill. All awards are to be made by the agency conducting the proceeding, and are to be paid out of the appropriation for that agency.

The awarding of legal fees to successful private litigants will not in any way deter Government attorneys from pursuing meritorious claims. Similarly, it can hardly be regarded as an incentive to spurious litigation, as the nonprevailing party will be awarded legal fees only when the interests of justice manifestly dictate.

What this amendment will do is deter the governmental tendency to dispute meritorious claims in the expectation of outlasting an adversary. This is a practice which should be discouraged.

CRIMINAL ACTIONS

A substantial number of criminal defendants already receive, as a sixth amendment matter, the services of a Government-subsidized attorney, irrespective of the strength of the case or the actual outcome on the merits. It can only be viewed as ironic that a middle-income acquitted defendant in a misdemeanor case may be required to expend virtually all of his assets in order to finance a defense in his case, whereas an indigent convicted minor felon will be furnished his legal fees, and will frequently be released on probation with only a small fine.

This amendment provides for awards of fees and costs for defendants who plead not guilty and are acquitted at trial or on appeal or who have the cases against them dismissed. The award of fees and costs would cover both trials and appeals if the defendant ultimately prevails. No provision is made for awarding fees to defendants pleading no contest, or who are found guilty. No maximum limit is placed on awards other than the award must stand to the test of reasonableness. There are no condi-

tions under which awards to successful defendants would be denied or decreased, as, for example, when they succeed on a technicality of the law rather than on the merits.

Mr. President, I hope that the amendment to the amendment of the Senator from Massachusetts may be accepted without a rollcall vote.

Mr. MATHIAS. Mr. President, I am wondering if the distinguished Senator from North Carolina could advise the Senate what he feels would be the cost of this amendment to the amendment?

Mr. HELMS. The Senator from North Carolina has no estimate of that. I do not know that you can place a price tag on fair play to the individual citizen who is, under existing circumstances, being harassed and intimidated by Federal bureaucrats.

Mr. MATHIAS. I agree with the distinguished Senator from North Carolina that fair play for the average citizen is simply beyond price, that it ought to be a basic consideration of everything that we do here, in the Senate and throughout the Government, and certainly in the courts. But there still has to be a bill paid. It appears to me that this would be one of the most expensive provisions and the fact that it extends to criminal cases as well as to civil cases, I think, raises some very serious questions.

What it does, of course, is change a very fundamental concept of American jurisprudence. Perhaps it should be changed—the concept of casting the burden of cost in criminal cases which have been borne by defendants up to this time. There are other rules prevailing in other countries. Perhaps they should be studied.

But the fact is that this would be a very casual way to undertake one of the most fundamental changes in the procedures of the U.S. courts—without hearings, without any careful study, without getting the judgment of judges, of lawyers, of people who are going to be intimately involved, and the general public, whom the Senator's amendment seeks to help.

I think it should be given consideration. I would not want to make a judgment out of hand on it. I would not want to make the judgment either way.

I think, of course, as the Senator says, fair play is beyond price. But there is a price tag on the last amendment, and I am wondering, in the absence of any kind of estimate of the cost of the amendment, whether it is within the budget authorization. Can the Senator advise the Senate as to whether there is authorization?

Mr. HELMS. I am sure that neither the cost of the proposal of the distinguished Senator from Massachusetts nor this modification is without cost. But I will say to the Senator, I hope the Senator from North Carolina probably may be regarded by his voting record as one of the more prudent spenders of the taxpayers' money in this body. But when it comes down to giving fair play to the average citizen—who is daily intimidated by Federal bureaucrats and Federal agencies, the relatively small cost will be worth it if it restrains the Federal bureaucrats, agencies, and bureaus, if it makes the bureaucrats exercise more fairness in filing charges which have no merit. So often, these charges are brought on the theory that, "This poor sucker will not have the money or the time to contest the Federal Government, the almighty Federal Government. Even if it costs $1 billion, which it certainly will not, it would be money well spent." Of course, to assume that it would cost an immense amount of money is to admit that there are, indeed, swarms of Federal bureaucrats who now feel no restraint in bringing flimsy, unfair, and even frivolous actions against citizens and small businessmen who have neither the funds nor the time to defend themselves against such an onslaught.

Mr. MATHIAS. Let me say if the Senator's object is to prevent the filing of charges that have no merit, I will go a lot further than this bill with him. I agree with the Senator that $1 billion would be cheap if that is the kind of situation we have. I think more than just being willing to spend a little money, we ought to get rid of the people who are making the mistakes. If they are repetitively making mistakes which result in the harassment of citizens, they ought to go.

Mr. HELMS. Mr. President, if the Senator will yield——

Mr. MATHIAS. If the Senator and I make mistakes, we go.

Mr. HELMS. If the able Senator will yield, if the Senator's proposition were put into effect, it would require hundreds of Greyhound buses to move the bureaucrats out of Washington, D.C.

Mr. MATHIAS. Without any lack of sympathy for what the Senator is trying to do, I would point out, however, to take the Senator's own figure of $1 billion, that is a substantial amount of money to be raised outside the budget.

I wanted to inquire of the Senator whether there had been a budget waiver.

Mr. HELMS. There has not. I do not believe a waiver is necessary, but I may be in error. In case I am, would the Senator be willing to send both my amendment and the amendment of the Senator from Massachusetts to the Budget Committee? Would he be willing to offer such a motion?

Mr. MATHIAS. I do not believe we have to make that motion. I do think—and I want to be completely fair with the Senator from North Carolina—this amendment to the amendment would create new obligations for the Federal Government, and it would constitute an authorization without a hearing.

Mr. HELMS. The same may be true of the Kennedy amendment.

Mr. MATHIAS. I think it is subject to a point of order.

I do not want to restrict the debate on this subject, but I would be constrained to make a point of order whenever the Senator has completed his observations on this subject.

Mr. HELMS. I would ask the Senator, does he hold the same position regarding the original Tunney bill, to which the Kennedy amendment in the nature of a substitute has been submitted?

Mr. MATHIAS. The difference the Senator will find on page 7 of the committee report:

> The Congressional Budget Office, in a letter dated March 1, 1976, has advised the Judiciary Committee that: "Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2278, a bill to award attorneys' fees to prevailing parties in civil rights suits.
>
> "Based on this review, it appears that no additional costs to the government would be incurred as a result of the enactment of this bill."

Mr. HELMS. I think the Senator may be talking about another piece of legislation.

QUORUM CALL

Mr. President, while we resolve this, 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. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed and concluded the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 43 Leg.]

Allen	Hatfield	Pearson
Burdick	Helms	Schweiker
Byrd, Robert C.	Hollings	Scott, William L.
Chiles	Kennedy	Stone
Culver	Long	Thurmond
Eastland	Mathias	Tower
Garn	McClellan	
Hart, Gary	Packwood	

The PRESIDING OFFICER (Mr. HATFIELD). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator

from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

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

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 617 Leg.]

YEAS—78

Allen	Hansen	Nunn
Bartlett	Hart, Gary	Packwood
Bayh	Haskell	Pastore
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Brooke	Helms	Percy
Bumpers	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Case	Inouye	Schweiker
Chiles	Jackson	Scott, Hugh
Clark	Javits	Scott, William L.
Cranston	Johnston	Sparkman
Culver	Kennedy	Stafford
Curtis	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Long	Stone
Durkin	Magnuson	Symington
Eagleton	Mathias	Taft
Eastland	McClellan	Talmadge
Fannin	McClure	Thurmond
Fong	McIntyre	Tower
Garn	Morgan	Williams
Gravel	Moss	Young
Griffin	Muskie	
	Nelson	

NAYS—3

Biden	Metcalf	Weicker

NOT VOTING—19

Abourezk	Ford	McGovern
Baker	Glenn	Mondale
Beall	Goldwater	Montoya
Brock	Hart, Philip A.	Stevenson
Buckley	Hartke	Tunney
Cannon	Mansfield	
Church	McGee	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. FONG. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may yield to the Senator from Hawaii for a unanimous-consent request.

Mr. ALLEN. I object.

Mr. FONG. I ask unanimous consent——

The PRESIDING OFFICER. Objection is heard. The Senator from Maryland has the floor.

Mr. MATHIAS. The administration has taken a position strongly opposed to the Helms amendment. As the sponsor of the amendment has explained, the language is substantially similar to S. 2871.

The Department of Justice has commented at length on S. 2871 and I think it would be useful to acquaint the Senate with the opinion set forth in a letter addressed to the chairman of the Committee on the Judiciary under date of September 20, 1976.

I ask unanimous consent to include a copy of that letter at the conclusion of my remarks.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., September 20, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 2871, a bill, "To provide for equal access to courts in lawsuits involving the Federal Government, and for other purposes".

The bill amends Sections 2412, 2517, and 2678 of Title 28, United States Code. The bill also adds new Sections, 504 to Title 5, and 3013 to Title 18, United States Code. This proposed legislation would substantially alter and enlarge recoverable items in "a judgment for costs" in actions by or against the United States, or any agency or official thereof, to any non-governmental party who prevails in whole or in part. Allowable costs would include: "the reasonable expenses of any witnesses or expert witnesses,", "the reasonable cost of any studies, analyses, engineering reports, tests or projects which the court finds necessary to litigation of the action", and "a reasonable attorney fee . . . at prevailing rates for such services, including any reasonable risk factor component." Similar recovery is provided for in criminal actions and certain agency proceedings.

An award of attorneys' fees against the United States, or any agency or official thereof, absent 'Congressional authorization', is expressly precluded under existing law. 28 U.S.C. 2412. See *Alyeska Pipeline Co.* v. *Wilderness Society*, 421 U.S. 240 (1975); *Pyramid Lake Paiute Tribe of Indians* v. *Morton*, 163 U.S. App. D.C. 90, 499 F.2d 1095 (1974), *cert. denied*, 420 U.S. 962. Traditionally, American courts have, for the most part, resisted the inclusion of attorneys' fees and other litigative expenses in costs taxed against the losing party. See *Fleishmann* v. *Maier Brewing Co.*, 386 U.S. 714 (1967). It is the view of the Justice Department that the American rule should continue to be the prevailing standard, with exceptions limited to specific areas, carefully identified and considered, where strong public policy reasons indicate the appropriateness of the exceptions. The bill, however, does not address specific areas where such exceptions might be warranted. Instead, the proposed legislation would encompass all civil litigation (as well as criminal actions and certain administrative orders). While the Justice Department is not primarily concerned with administrative proceedings and the awarding of attorneys' fees and other costs in such proceedings, we express our objection on the broadness of the proposed statute.

The bill's provisions run contrary to its preamble. Finding "serious inequities" in providing "for equal access to courts in lawsuits involving the Federal Government", the bill does not distinguish between the categories of litigants engaged in suits involving the Federal Government. Indeed, this proposed legislation would allow for recovery of attorneys' fees and other expenses where such disparity is presumably absent, *e.g.*, suits brought by or against "companies, unions, other organizations and State and local governments." Beyond the obvious drain on the Treasury, the bill also threatens to encourage litigation involving the Government when the Executive and the Judiciary are currently tasked with substantially increased caseloads.

A further major concern is the provision in section 7 of the bill for the awarding of attorney fees and costs to defendants in certain criminal cases. When a criminal trial or appeal results in a defendant being found not guilty or in the charges being dismissed, the bill provides that the court shall award to the defendant ". . . reasonable attorney fees and costs incurred by him in his defense . . .". A finding of not guilty at trial, the setting aside of a guilty finding on appeal, or dismissal of the charges may occur for many reasons other than lack of guilt on the part of the defendant. To compensate the defendant in all such cases represents a radical departure from the long standing current practice. We are not aware of any justification for placing this burden on the Government. There are, of course, adequate provisions in current law for providing for attorneys and attendant costs when the defendant is financially unable to meet such expenses.

The Department of Justice therefore recommends against enactment of this legislation.

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,

MICHAEL M. UHLMANN,
Assistant Attorney General.

Mr. MATHIAS. Mr. President, I move to lay the pending amendment on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. HELMS. Yeas and nays, Mr. President.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. (Mr. HATFIELD). The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina (Mr. HELMS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

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

The result was announced—yeas 54, nays 27, as follows:

[Rollcall Vote No. 618 Leg.]

YEAS—54

Abourezk	Haskell	Pearson
Bayh	Hatfield	Pell
Bentsen	Hathaway	Percy
Biden	Hollings	Proxmire
Brooke	Huddleston	Randolph
Bumpers	Humphrey	Ribicoff
Burdick	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Case	Javits	Scott, William L.
Chiles	Johnston	Stafford
Clark	Kennedy	Stevens
Cranston	Leahy	Stevenson
Culver	Magnuson	Stone
Durkin	Mathias	Symington
Eagleton	McIntyre	Weicker
Fong	Moss	Williams
Gravel	Muskie	
Griffin	Nelson	
Hart, Gary	Pastore	

NAYS—27

Allen	Hansen	Packwood
Bartlett	Helms	Roth
Bellmon	Hruska	Sparkman
Byrd, Harry F., Jr.	Laxalt	Stennis
Curtis	Long	Talmadge
Domenici	McClellan	Thurmond
Eastland	McClure	Tower
Fannin	Metcalf	Young
Garn	Morgan	
	Nunn	

NOT VOTING—19

Baker	Ford	McGovern
Beall	Glenn	Mondale
Brock	Goldwater	Montoya
Buckley	Hart, Philip A.	Taft
Cannon	Hartke	Tunney
Church	Mansfield	
Dole	McGee	

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 471

Mr. ALLEN. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 471:

On line 6 after the comma following the word statutes add the following: "title IX of Public Law 92-318."

Mr. ALLEN. Mr. President, this amendment would put into effect the stated purpose of the substitute offered by the distinguished Senator from Massachusetts, and it would add title IX—that is, enforcement of rights under that—as an area calling for the payment of attorney's fees where action is brought to enforce those rights.

If the bill is to be passed, there is no reason why it should not contain this; but it is not necessary to offer a substitute which would cut off all other amendments. So this amendment would bring title IX under the provisions of the bill and would make unnecessary, and possibly out of order, the amendment of the Senator from Massachusetts. It would allow other amendments to be offered to the bill itself.

On this amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

Mr. ALLEN. I yield.

Mr. MATHIAS. As I understand the Senator's amendment, it would be to add on line 6, after the comma, at the end of the line, the words "title IX."

Mr. ALLEN. That is correct, yes.

Mr. MATHIAS. Is this an amendment to the bill or to the pending amendment?

Mr. ALLEN. It is an amendment to the bill. It would make unnecessary the Kennedy substitute. This puts into effect the thrust of the substitute of the distinguished Senator from Massachusetts. In other words, it is not only the Civil Rights Act referred to in the bill. This would add the title IX provisions as well.

Mr. MATHIAS. I understand. I thought originally that the amendment went to the amendment of the Senator from Massachusetts.

Mr. ALLEN. No.

Mr. MATHIAS. Would it not be necessary to dispose of the amendment of the Senator from Massachusetts before we undertook——

Mr. ALLEN. No, because if the amendment of the Senator from Massachusetts is adopted, no further amendment will be in order. That would not quite serve the public interest.

Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll.

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

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Abourezk	Hart, Gary	Moss
Allen	Haskell	Nunn
Biden	Hatfield	Pearson
Brooke	Helms	Schweiker
Bumpers	Huddleston	Scott, William L.
Burdick	Jackson	Sparkman
Byrd, Robert C.	Javits	Stevens
Case	Kennedy	Stone
Chiles	Laxalt	Symington
Culver	Leahy	Talmadge
Durkin	Magnuson	Thurmond
Garn	Mathias	Williams
Gravel	McIntyre	Young
Griffin	Metcalf	
Hansen	Morgan	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

The second assistant legislative clerk resumed the call of the roll.

Mr. ALLEN. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I call for the yeas and nays.

The PRESIDING OFFICER (Mr. LAXALT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. STEVENSON), and the Senator from Colorado (Mr. GARY HART) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Ohio (Mr. GLENN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

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

The result was announced—yeas 74, nays 3, as follows:

[Rollcall Vote No. 619 Leg.]

YEAS—74

Abourezk	Griffin	Packwood
Allen	Hansen	Pastore
Bayh	Haskell	Pearson
Bellmon	Hatfield	Pell
Bentsen	Hathaway	Percy
Brooke	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Huddleston	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Scott, William L.
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Curtis	Magnuson	Stevens
Dole	Mathias	Stone
Domenici	McClellan	Symington
Durkin	McClure	Talmadge
Eagleton	McIntyre	Thurmond
Eastland	Metcalf	Tower
Fannin	Morgan	Williams
Fong	Moss	Young
Garn	Muskie	
Gravel	Nelson	
	Nunn	

NAYS—3

Bartlett	Biden	Weicker

NOT VOTING—23

Baker	Goldwater	McGee
Beall	Hart, Gary	McGovern
Brock	Hart, Philip A.	Mondale
Buckley	Hartke	Montoya
Cannon	Hruska	Stevenson
Church	Johnston	Taft
Ford	Kennedy	Tunney
Glenn	Mansfield	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I have not had the opportunity to explain this amendment. I am pleased that the Chair saw fit to recognize me rather than the distinguished Senator from Maryland because I do not believe there has been an opportunity to explain the amendment.

What the amendment does is to add to the original bill reported by the committee the words "title IX of Public Law 92–318."

What the bill does is to provide that in any proceeding under certain sections of the revised statutes—and it lists the sections, sections 1977, 1978, 1980, 1981, of the revised statutes, these having no reference to a year—the court may, in its discretion, allow the prevailing party, other than the United States, a reasonable attorney fee as part of the cost.

What this amendment does is to add title IX of Public Law 92–318 as one of the sections, one of the provisions of law, where an action can be brought and the prevailing party would, in the discretion of the court, be allowed attorney fees. In other words, it adds a section to the civil rights section.

This is a different approach from the substitute of the distinguished Senator from Massachusetts (Mr. KENNEDY). His substitute would do the same thing, but it would be a substitute and not a simple amendment.

If his substitute is adopted, then no further amendments can be offered to the bill. I feel sure that other amendments will be offered. Senator HELMS and I have an amendment at the desk that would make this same rule apply on the court in its discretion allowing attorney fees to the prevailing party in cases where the IRS brings an action against a person, charging the existence of tax liability to the Government on the part of that person, and the result of the action is found in favor of the person being sued or harassed by the IRS in the judgment.

Then in the judgment of the court and in the discretion of the court attorney fees could be added to the prevailing party.

That is a very fine amendment in the opinion of the Senator from Alabama, and one that should be added to this bill. With the long arm of the Federal Government reaching out against our citizens and charging income tax liability, if it develops on the trial of the case that there is no liability, or that the action was frivolous, then under my and Senator HELMS' amendment the court, in its discretion, could allow attorney fees to the citizen who has been harassed by the Government.

That is not a farfetched situation. We see instances where suits by IRS or the Treasury Department, as the case might be—and the terms can be used interchangeably, I assume—have brought actions against citizens who owed no tax, as it developed, but they may well have been impoverished by defending against an action of the Government in this matter.

The amendment that we hope to offer would allow attorney fees to this citizen who may have been harassed by the Government.

If the Kennedy substitute is adopted, then there will be no opportunity to offer amendments. On the other hand, Mr. President, if the pending amendment of the Senator from Alabama is adopted, it does say that in sex discrimination cases, title 9 cases, where an action is brought to assert the rights of a citizen under this title, in addition to the civil rights section, attorney fees could be added to the prevailing side.

The distinguished Senator from Massachusetts pointed out that to do this was something that the administration approved, that it was supported by the administration. I called to the attention of my colleagues at the time that I was delighted to see the distinguished Senator from Massachusetts acting as floor leader for the administration, pushing this concept.

When I speak of the distinguished Senator from Massachusetts, I have reference to the distinguished senior Senator from Massachusetts. I see the distinguished junior Senator from Massachusetts (Mr. BROOKE) in the Chamber.

All my amendment would do would be to put into the bill as an amendment, allowing still further amendments to the bill, the thrust of the Kennedy substitute. The Kennedy substitute would cut off all further amendments.

Mr. President, I am not going to speak unduly long on this amendment. May I inquire of the Chair if the yeas and nays have been ordered on the Kennedy substitute?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Kennedy substitute.

Mr. ALLEN. I ask unanimous consent that it might be in order at the conclusion of my remarks that I might request the yeas and nays on the Kennedy substitute and on my own amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the distinguished Senator has not consented to any request today on the part of others.

Mr. ALLEN. I appreciate the Senator's calling my attention to that.

I appreciate his calling that to my attention. I would hate to establish a precedent to make a request for myself that I am denying to other Senators. I will wait until the proper time to make that request.

The PRESIDING OFFICER. The Senator is advised that unanimous consent has already been obtained with regard to his own amendment, the request for the yeas and nays.

Mr. ALLEN. I withdraw the unanimous-consent request on the other.

That being true, Mr. President, the issue which is before the Senate, as put into effect by the amendment of the Senator from Alabama, is shall the right to be free from sex discrimination as guaranteed by title IX be protected to the extent of giving the court the authority in its discretion to grant attorney fees in an action under that section to assert such rights to the prevailing side?

Mr. President, I yield the floor.

Mr. BROOKE. Mr. President, I move to lay on the table the amendment of the distinguished Senator from Alabama.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

Mr. ALLEN. Had not the quorum call started? I request that the Chair continue the quorum call. Mr. President, the quorum call had started.

The PRESIDING OFFICER. The Senator is correct, it had started.

The clerk will continue calling 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.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was resumed and concluded and the following Senators answered to their names:

[Quorum No. 45 Leg.]

Allen	Haskell	Nelson
Bayh	Helms	Pearson
Brooke	Inouye	Percy
Burdick	Jackson	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Chiles	Laxalt	Scott, Hugh
Griffin	Leahy	Stone
Hart, Gary	Magnuson	

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I move to lay on the table the motion to direct the Sergeant at Arms, and I call for the yeas and nays.

The PRESIDING OFFICER. The motion is not in order.

The question is on agreeing to the motion of the Senator from West Virginia that the Sergeant at Arms be directed to request the attendance of absent Senators. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE),

the Senator from New Mexico (Mr. MONTOYA), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Ohio (Mr. TAFT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

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

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 620 Leg.]

YEAS—72

Abourezk	Hansen	Nelson
Allen	Hart, Gary	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatfield	Pastore
Brooke	Hathaway	Pearson
Bumpers	Helms	Pell
Burdick	Hollings	Percy
Byrd, Harry F., Jr.	Hruska	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Case	Humphrey	Ribicoff
Chiles	Inouye	Roth
Clark	Jackson	Schweiker
Cranston	Javits	Scott, Hugh
Culver	Kennedy	Scott, William L.
Curtis	Laxalt	Sparkman
Domenici	Leahy	Stafford
Durkin	Long	Stennis
Eagleton	Magnuson	Stevens
Eastland	Mathias	Stone
Fannin	McClellan	Talmadge
Fong	McClure	Thurmond
Garn	McIntyre	Tower
Gravel	Morgan	Williams
Griffin	Moss	
	Muskie	

NAYS—3

Bartlett	Biden	Weicker

NOT VOTING—25

Baker	Glenn	Mondale
Bayh	Goldwater	Montoya
Beall	Hart, Philip A.	Stevenson
Brock	Hartke	Symington
Buckley	Johnston	Taft
Cannon	Mansfield	Tunney
Church	McGee	Young
Dole	McGovern	
Ford	Metcalf	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to table the Allen amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

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

The result was announced—yeas 54, nays 24, as follows:

[Rollcall Vote No. 621 Leg.]

YEAS—54

Abourezk	Haskell	Pearson
Bellmon	Hatfield	Pell
Bentsen	Hathaway	Percy
Biden	Hollings	Proxmire
Brooke	Huddleston	Ribicoff
Bumpers	Humphrey	Roth
Burdick	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Case	Javits	Scott, William L.
Chiles	Kennedy	Stafford
Clark	Leahy	Stevens
Cranston	Magnuson	Stevenson
Culver	Mathias	Stone
Durkin	McIntyre	Symington
Eagleton	Moss	Weicker
Fong	Muskie	Williams
Gravel	Nelson	
Griffin	Packwood	
Hart, Gary	Pastore	

NAYS—24

Allen	Hansen	Nunn
Bartlett	Helms	Sparkman
Byrd, Harry F., Jr.	Hruska	Stennis
Curtis	Laxalt	Talmadge
Domenici	Long	Thurmond
Eastland	McClellan	Tower
Fannin	McClure	Young
Garn	Metcalf	
	Morgan	

NOT VOTING—22

Baker	Ford	McGovern
Bayh	Glenn	Mondale
Beall	Goldwater	Montoya
Brock	Hart, Philip A.	Randolph
Buckley	Hartke	Taft
Cannon	Johnston	Tunney
Church	Mansfield	
Dole	McGee	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, am I recognized? I am recognized, am I not?

The PRESIDING OFFICER (Mr. CULVER). The Senator is recognized.

REQUEST FOR COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on September 22 to consider committee business; that the Subcommittee on Environment and Land Resources of the Committee on Interior and Insular Affairs be authorized to meet on September 22 to consider the Forest Service's performance in the preparation of the plan for the East River Unit of the Gunnison River National Forest in Colorado; that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on September 27 on the Occupational Safety and Health Act; and that the Permanent Subcommittee on Investigations of the Committee on Government Operations be authorized to meet on September 29 and 30 to examine HEW's Medicaid Management Information System.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

REQUEST FOR SPECIAL ORDERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators that have already been entered, the following orders be entered: Mr. MUSKIE 10 minutes, Mr. PROXMIRE 10 minutes, Mr. KENNEDY 10 minutes, and Mr. HATHAWAY.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, Mr. President, I have notified the distinguished assistant majority leader since we are on this bill I feel like we ought to stay on it until we get through. I have stated that I will object to unanimous-consent requests until the bill has been disposed of and, therefore, I object.

The PRESIDING OFFICER. Objection is heard.

REQUEST TO PROCEED FOR 1½ HOURS ON S. 2925 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for recognition of Senators have been completed, and with the understanding that there will be no action on the bill, the Senate proceed for not to exceed 1 hour and 30 minutes on S. 2925, the sunset legislation, with the understanding that there be no action on the bill, and it will be set aside at the expiration of 1½ hours.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, until the question of germaneness is disposed of——

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no problem with germaneness at this particular time.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Florida (Mr. CHILES).

DISTRICT OF COLUMBIA APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on H.R. 15193 and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15193) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Is this debatable?

The PRESIDING OFFICER. This particular request is not debatable.

Mr. ALLEN. After it is laid before the Senate I hope the presiding officer will recognize the Senator from Alabama.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request for the immediate consideration of this conference report?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. It is in order to move the consideration of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I move the consideration of the conference report, and I ask for the yeas and nays.

Mr. ALLEN. Mr. President, I wish to be heard.

The PRESIDING OFFICER. That motion is not debatable.

Mr. ALLEN. I have no objection to proceeding. I just want to be heard before the conference report is adopted.

Mr. CHILES. If there is no objection to proceeding——

Mr. ALLEN. I have no objection.

Mr. CHILES. I ask unanimous consent that the request for yeas and nays be withdrawn.

Mr. ALLEN. I have no objection to proceeding. I just want to be heard.

The PRESIDING OFFICER. Without objection, the yeas and nays are withdrawn.

Mr. CHILES. Mr. President, I move the adoption of the conference report.

Mr. ALLEN. Mr. President, I wish to be heard, please.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator will be advised that this motion is not debatable.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

Mr. ALLEN. The motion to adopt it is debatable.

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. The motion to proceed has not been agreed to.

The question is on agreeing to the motion to proceed.

Mr. ROBERT C. BYRD. The yeas and nays have been withdrawn.

The PRESIDING OFFICER. The yeas and nays have been vacated. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 10, 1976.)

Mr. CHILES. Mr. President, I am pleased to have the opportunity to bring to the Senate the conference report on the District of Columbia Appropriations Act of 1977.

As the Senate will recall, the city's budget request for the District of Columbia for fiscal year 1977 amounted to $1,092,280,900 for operating expenses and $35,794,700 for capital outlays for a total request of $1,128,075,600. The amount agreed to by the conference is $175,900 less than the Senate bill with regard to operating expenses and $300,000 more than the Senate bill with regard to capital outlay. The total amount agreed to by the conference report is $1,120,107,400, which is $124,100 more than the Senate bill and $7,968,200 less than the total city request of $1,128,075,600.

The Federal payment recommended by the conference report is $259,797,400 which is $175,900 less than the amount recommended by the Senate bill and $10,202,600 less than the amount recommended by the House bill. While the Federal payment agreed to by the conference report is $20,202,600 less than the $280,000,000 requested by the city, it is $10,848,700 more than was provided to the city in 1976. The Federal payment provided by the conference report represents a 4-percent increase over the level provided in fiscal year 1976. The increase provided for in the Federal payment corresponds on a percentage basis almost exactly with the increase provided by the conference in the funds for overall city operating expenses.

The financial plan approved by the conference for 1977 is balanced on a cash basis and there will be approximately $193,100 left in the city's treasury on September 30, 1977. The budget total as recommended by the conference is $33,097,600 less than the ceiling provided in the second concurrent resolution for the District of Columbia appropriations bill.

The House/Senate conference spent a great deal of time discussing the merits of four separate items. I would like to report to the Senate on the substance and outcome of each of these four items.

First, with regard to Forest Haven—the D.C. home for the mentally retarded—the Senate bill provided $3,213,200 and 188 positions more than the House to permit Forest Haven to meet all Federal standards and to remedy all significant deficiencies at the institution. The House receded to the Senate on this item. I have been appalled by continuing reports of the generally primitive conditions that exist at the institution and the city's lack of action to remedy the situation. I have called for monthly reports from the city on the use of these funds and on the city's progress to fill any vacant positions at Forest Haven. I plan to monitor this situation closely until the city has remedied the appalling deficiencies at Forest Haven.

Second, the conferees spent a long time discussing the merits of reducing the city contribution to the Metrobus operating subsidy. This action, proposed by the Senate, should require the District of Columbia to increase the bus fare during peak hour periods from 40 cents to 50 cents. This action was recommended by the Metro Board last year and would permit peak hour bus fares to be increased for the first time in 7 years. I am pleased to report to the Senate that the House receded on this item.

For the last 7 years the bus fare in the District has remained at 40 cents while the Metrobus operating deficit has gone from approximately $1,000,000 in 1969 to over $54,000,000 in 1976. Also during this period of time, cost-of-living adjustments have been made to welfare payments in the amount of approximately 30 percent and overall price inflation has been approximately 55 percent nationwide.

The conference committee discussed at some length the socioeconomic arguments relating to a fare increase. The fare increase, however, is for peak periods only. During peak periods the ridership is primarily made up of working people, and a fare increase during these hours of the day should therefore not work an economic hardship on the citizens of the District. During the last 7 years fares have been increased in both Maryland and Virginia and hearings have been scheduled to consider additional fare increases for Maryland and Virginia later this month. No hearings have been scheduled by the city to even consider fare increases in the District of Columbia.

Increasing the bus fare to 50 cents during peak hour periods will correspond to the current peak hour fare on Metrorail of 55 cents. As the city has already agreed to a 55-cent fare on Metrorail during the peak periods, an increase of the base fare in the District for the bus system to 50 cents is now all the more appropriate. Additionally, as the current fares in Maryland and Virginia range from 60 cents to $1.20 depending on the distance traveled, a 50-cent fare in the District will bring the District of Columbia into closer alinement with the surrounding jurisdictions.

The third major point of discussion was funding for the police department. The Senate bill had approved the full city request while the House had included $901,600 more than requested by the city. The conferees debated the need for this additional amount of funds for the police in view of the fact the metropolitan police force is the largest in the Nation on a per capita basis. While the Senate receded to the House on this item, we will continue to review the program and budget needs of the police department with the same attention as we devote to other city programs with the focus on facts and with an examination of the total base budget. While it is im-

portant to maintain an effective police force in the District, it is also important to realize that the turbulent conditions of the 1960's that saw the large buildup in the police force no longer exists in the District today. It is also important to remember that there are 24 other police forces and numerous private guard forces that operate in the District of Columbia.

Fourth, the conferees discussed the merits of eliminating the 2 cents per kilowatt-hour limitation on the amount that the city can pay Potomac Electric Power Co.—Pepco—for street lighting in the city. While the D.C. appropriations bill has included a limitation on the amount that the city can pay Pepco for street lighting since 1912, the limitation until last year was always higher than the actual kilowatt-hour charge and the city has therefore always been able to pay its bills. The dramatic fourfold increase in energy prices since the Arab embargo in 1973 has rendered the 2 cents per kilowatt-hour limitation as outmoded. Pepco has filed a suit to recover past amounts due to it from the city but which the city could not pay because of the limitation. The House argued for the continuation of the 2 cents per kilowatt-hour limitation. The House indicated that it would reconsider its position on this item during consideration of the 1978 budget based on the outcome of the pending court case. Based on this understanding, the Senate receded to the House on this item.

I believe that the District must take every effort to collect the taxes and fees that are due to it and to periodically adjust its many fees for the effects of inflation. As long as the city makes every good effort to raise the revenue that is due to it, I believe that we in the Congress can provide the city with a Federal payment that comes from the tax dollars of all of our constituents around the country in good conscience. The Senate bill included several items designed to encourage the District to raise more of its own revenue by collecting delinquent taxes and by implementing a proper billing system at the city's hospitals and clinics. The Senate held a special zero base review of the health care delivery system that operates in the District of Columbia. One of the findings of that special hearing was the fact that the city provides all services at its clinics free, regardless of the income of the recipient, and the billing system at the hospitals is so chaotic that millions of dollars due to the city from medicaid, medicare, and third party insurance are lost each year.

The Senate bill also included funds for additional welfare case workers which will permit a reduction in the high overpayment and ineligibility rates and will permit a reduction in the unnecessary expenditure of welfare funds that amount to some $10,000,000 each year. I am happy to report to the Senate that the House receded to the Senate on all of these revenue increasing and expenditure reducing items.

I would like to highlight the $52,100 and the three positions provided by the Senate bill to the Office of the Mayor for the purpose of providing a Latino Community Affairs activity. This new activity will provide an ombudsman function in the Office of the Mayor to help advance the interests of the Latino community in Washington, D.C. While the House had not provided any funds or positions for this city requested activity, the House conferees agreed to recede to the Senate on this item.

Finally, with regard to title I of the bill, I would like to report the changes made in accordance with our efforts to restructure the budget on a mission basis. We found that more than 50 percent of the dollar total associated with transportation activities were not included in the transportation account. The Senate bill put all transportation activities together in the transportation account which will aid the Congress and the public in understanding what the city's request is in this functional category. The subcommittee plans to continue its efforts to restructure the budget on a mission basis when we consider the 1978 budget request. I am happy to report that the House receded to the Senate's actions in this regard.

Title II of the Senate bill provided $36,450,000 for the Pennsylvania Avenue Development Corporation and was included in the bill at the request of Senator BYRD. The House conferees acting on the advice of the House Appropriations Subcommittee on Interior and Related Agencies argued for elimination of the item from the D.C. bill. This item will be funded at a later time in the appropriation bill for Interior and Related Agencies. The Senate receded to the House on this item.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table comparing the conference agreements with the amounts for fiscal year 1976, the budget estimates for fiscal year 1977 and the amounts recommended in the House and Senate versions of the bill.

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

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE I									
DISTRICT OF COLUMBIA									
Federal Funds									
Federal payment	$248,948,700	$280,000,000	$270,000,000	$259,973,300	$259,797,400	$10,848,700	−$20,202,600	−$10,202,600	−$175,900
Payment in lieu of reimbursement for water and sewer services to Federal facilities	5,688,000	2,707,000	2,707,000	2,707,000	2,707,000	−2,981,000			
Loans to the District of Columbia for capital outlay	210,000,000	114,187,000	100,000,000	101,292,000	101,292,000	−108,708,000	−12,895,000	1,292,000	
Total, Federal funds	464,636,700	396,894,000	372,707,000	363,972,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−175,900
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
General operating expenses	116,366,400	114,194,300	112,870,700	84,550,800	84,453,300	−31,913,100	−29,741,000	−28,417,400	−97,500
Public safety	243,059,100	246,176,300	247,160,400	246,258,800	247,160,400	4,101,300	984,100		901,600
Education	237,325,900	247,293,200	245,287,700	245,287,700	245,287,700	7,961,800	−2,005,500		
Recreation	16,520,000	17,729,600	17,674,400	17,674,400	17,674,400	1,154,400	−55,200		
Human resources	264,074,500	268,288,800	267,955,800	268,475,600	268,475,600	4,401,100	186,800	519,800	
Transportation	26,919,400	27,177,900	25,810,900	55,162,600	54,182,600	27,263,200	27,004,700	28,371,700	−980,000
Environmental services	63,492,300	69,331,600	69,078,000	69,036,000	69,036,000	5,543,700	−295,600	−42,000	
Personal services	10,000,000	17,100,000	16,245,000	16,245,000	16,245,000	6,245,000	−855,000		
Settlement of claims and suits	304,500	143,100	143,100	166,600	166,600	−137,900	23,500	23,500	
Repayment of loans and interest	63,380,600	84,846,100	80,839,100	80,839,100	80,839,100	17,458,500	−4,007,000		
Bicentennial services	700,000					−700,000			
Total, operating expenses	1,042,142,700	1,092,280,900	1,083,065,100	1,083,696,600	1,083,520,700	41,378,000	−8,760,200	455,600	−175,900
Capital Outlay									
Capital outlay	117,706,500	35,794,700	35,794,700	36,286,700	36,586,700	−81,119,800	792,000	792,000	300,000
Total, District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	1,247,600	124,100

	New budget authority					Conference compared with—			
	Enacted fiscal year 1976	Estimates fiscal year 1977	House fiscal year 1977	Senate fiscal year 1977	Conference fiscal year 1977	Fiscal year 1976 enacted	Fiscal year 1977 estimates	House bill	Senate bill
TITLE II									
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Land acquisition and development		(25,000,000)		25,000,000					−25,000,000
Public development		(11,450,000)		11,450,000					−11,450,000
Total		(36,450,000)		36,450,000					−36,450,000
Summary									
Grand total, new budget (obligational) authority:									
Consisting of—									
Federal funds	464,636,700	396,894,000	372,707,000	400,422,300	363,796,400	−100,840,300	−33,097,600	−8,910,600	−36,625,900
District of Columbia funds	1,159,849,200	1,128,075,600	1,118,859,800	1,119,983,300	1,120,107,400	−39,741,800	−7,968,200	1,247,600	124,100

Mr. MATHIAS. Mr. President, the conferees on H.R. 15193, the District of Columbia appropriations bill for fiscal year 1977, engaged in some very tough bargaining. The House side won some points and the Senate side prevailed on other issues—but as I look back over our actions it seems that the District in many cases was the loser.

Under the Constitution, Congress has ultimate responsibility for the Nation's Capital. I believe that this responsibility includes taking certain steps to help insure the financial stability of the District government. Congress must monitor the general trends in the District of Columbia budget, the thrust of major programs, and the adequacy of revenues to cover projected operating costs. In addition, we must take care that a basic standard of public services is maintained to protect the health, safety, and welfare of District residents as well as the Federal interest. The vast majority of decisions with respect to the District budget are, however, purely matters of municipal management that should be made by the locally elected officials charged with responsibility for running the District of Columbia government.

When Congress adopted the District of Columbia Self Government and Governmental Reorganizational Act in 1973, "Home Rule" was granted to the District in the belief that democracy should exist here in our Nation's Capital. In addition to the need for an extension of certain basic rights to the citizens of the District, I believe the Home Rule Act was intended to transfer to local authority the responsibility for the day-to-day management of the local government.

The Senate Legislative Committee on the District of Columbia, on which I serve, has—and I believe rightly so—undertaken efforts to provide support for management and financial accounting improvements in the District. We have examined some of the financial pressures on the District government from the perspective of the city's long-range fiscal health. But we have not become involved in specific administrative decisions on how the city is to be operated.

The Senate Appropriations Subcommittee on the District of Columbia has a tough job to do with respect to the city's budget requests. The chairman of the D.C. Appropriations Subcommittee has worked very hard in a sincere effort to bring the city into a position of financial stability. It seems clear that some cuts must be made in the city's budget requests each year, and wielding the ax is not a very popular or rewarding task. Senator CHILES has, nevertheless, faced up to the challenge with what I believe is a real commitment to making improvements in the Nation's Capital.

Unfortunately, I find that more and more of the actions on D.C. appropriations are addressing details of local management that should be the responsibility of the officials elected by District residents.

In signing the conference report on H.R. 15193, I felt compelled to take exception to amendment 12 that withholds a portion of the District's contribution to Metrobus operating costs. By withholding $2.4 million of the District's share of Metrobus operating costs, the conferees intended to force the city into raising peak hour bus fares from 40 to 50 cents. This action was taken on a day when the Washington metropolitan area was experiencing its seventh air pollution alert of the season and the 41st day of the year when our air was considered "hazardous" to breathe. In these circumstances, I find it lamentable that the conferees would accept a proposal to increase the cost of public transit—a move that will undoubtedly result in fewer transit riders, more cars, more congestion, and more pollution in the Nation's Capital.

There is no question that the increasing costs of Metrobus operations demand attention. I would readily concur with any strong direction to the District government to explore what steps can be taken to minimize their share of Metrobus operating losses. The record of our hearings indicates there are many creative approaches to bus operations—directed toward increasing ridership, improving routes, service, and basic system management—that could help to hold down operating losses. But when Congress suggests that bus fares in Washington, D.C. be increased 10 cents between the hours of 6 and 9:30 a.m. and 3 to 6:30 p.m. on weekdays, we are going too deeply into the details of transportation policy and administration.

If the locally elected officials in the District of Columbia determine as a matter of social, economic, environmental, and transportation policy that bus fares should be 40 cents, then I do not believe that Congress should interfere—as long as the local government is willing to produce the revenues to support a 40 cents bus fare. Progressive cities throughout the Nation including Atlanta, Cincinnati, Cleveland, Los Angeles, Louisville, Seattle, St. Louis, and Topeka have been lowering their bus fares to increase ridership. In many cases operating costs are being supported by a special tax rather than the farebox.

The substantive arguments against increases in transit fares—in light of the impact on lower income people who must depend on the bus and the fact that those people who can afford to pay more are likely to switch to their cars—are compelling to anyone who is concerned about maintaining quality in the urban environment. In this case, however, the issue of procedure overshadows the problems of substance.

Bus fares in the District of Columbia are established by the Washington Metropolitan Area Transit Authority—an interstate compact agency. By withholding a portion of the District's just share of bus operating expenses, Congress is putting pressure on the relationship among the three partners—Maryland, Virginia, and the District of Columbia—that have joined together in an effort to provide transportation services to the Washington area.

A change in Metrobus fares can only be implemented through action by the WMATA Board following complete public hearings. The public hearings on a proposal to change Metrobus fares should produce a record with clear data about the impacts on lower income riders, air quality, traffic congestion, total revenues, and the entire regional transportation system. Until those public hearings are completed—at least 4 months in the future—any decision about a bus fare increase should be withheld.

I do not believe that the District of Columbia appropriations bill should be a vehicle for congressional ratesetting for the transportation system of the Washington metropolitan area, nor do I believe that we should use the District of Columbia appropriations bill as an indirect approach to having Congress resume responsibility for the day-to-day management of local affairs in the District of Columbia.

In the future I am hopeful that the attention of the District of Columbia Appropriations Subcommittee will be directed to the long-range outlook for city finances, broad issues of program priorities, and involvement with the details of local administration will be avoided. I also hope that our subsequent actions will make it clear that the District's contributions to metropolitan compact agencies are not going to be held as a hostage by Congress.

Mr. CHILES. Now, Mr. President, I move the adoption of the conference report and ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I am for the motion to concur in the House amendments. I believe that is the motion, that we concur in the House amendments and adopt the conference report.

CIVIL RIGHTS ATTORNEYS' FEES AWARD ACT

(At this point Mr. CULVER assumed the chair.)

Mr. ALLEN. Mr. President, I do feel that inasmuch as the Senate has moved to proceed to the attorney fee bill, that matter should be disposed of before other matters are disposed of. I feel that that bill needs to be discussed a little bit more because we have been having too many quorum calls, too many rollcalls, and not enough debate.

I am delighted that we have a sufficient number of Senators here to hear some of this debate. I hope they will stay around for a while and listen to some of this debate because this is an important bill.

It is a bill that the leadership has set great store by because it has moved to proceed to this measure. That motion was made at a time in the proceedings when it would not be debatable—a motion to proceed. There was no debate on that motion, none permitted under the rules. That is perfectly all right.

Of course, it was built up that way, so that there would be no debate on that. No business was laid down at the end of the session yesterday, so even if the motion had been made and dilatory tactics used—and I hope that would never occur—but had they been used and carried the matter beyond 2 hours after the convening of the Senate, the motion to proceed would still have been nondebatable.

This is about the only time we are going to have to debate this important issue. It is important, Mr. President, because it is putting the Senate in a position of, apparently, being more interested in taking care of our friends in the legal profession than most anything else that we have been concerned with.

The big hassle over the antitrust bill was the matter involving attorney's fees—the matter of State attorneys general throughout the country having the right to farm out these antitrust actions to a favored few among the lawyers—and a matter of contingency fees. We were very careful here in the Senate to leave a great big loophole whereby contingency fees could be permitted.

So we have tried again and again to take care of the attorneys.

I am a member of the legal profession, but I do not practice law. I have great respect for the legal profession. I want to see them make fees. I want to see lawyers well compensated. But I do not think that should be a primary concern here in the U.S. Senate—and all too often it is.

While the distinguished Senator from Massachusetts (Mr. KENNEDY)—I say that to identify him further because I see the distinguished junior Senator from Massachusetts here—has a bill (S. 2715) scheduled to be brought up.

What does it provide? It takes care of the attorneys. Of course, it does. It provides that in agency proceedings—and we have them by the thousands—attorney's fees may be allowed. Out of the taxpayer's pocket. Not out of the litigant's. Out of the taxpayer's pocket.

That is what we are faced with here this evening.

As I say, I have absolutely no objection to the conference report. I hope it will be passed unanimously. To show that I was not trying to resort to dilatory tactics, even though the assistant majority leader was calling for the yeas and nays on motion to proceed, I had no desire to have a rollcall and kill time. I thought we ought to get on with the debate, get on with this measure that the leadership is placing above all other bills on the calendar.

Is this a matter of making provision for civil right? No. Not one single civil right is enunciated in this bill. Not one single civil right is protected in this bill.

While we are considering the bill and proceeding like sheep to vote for it, let us see what we are voting for.

A very fine amendment, in my judgment, was turned down by the Senate just a moment ago. This amendment, apparently, the distinguished Senator from Massachusetts (Mr. KENNEDY) favored because he has a substitute that does nothing but put that amendment in. But he went a circuitous route on it.

He did not go the simple route of merely a very few words. Let us see how many words it would have taken. It would have taken seven words. In seven words he could have carried into effect what his substitute does.

I do not believe there would have been a great deal of opposition to it. But instead of adding these seven words to the bill by amendment, putting title IX, the antisex discrimination provision, under this same bill and providing that attorney's fees could be paid to the prevailing side where an action is brought to protect the rights guaranteed by this section—instead of merely putting those words as an amendment to the Tunney bill—I might say I have an amendment a little later on to name this bill for the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from California (Mr. TUNNEY). I feel they should be honored in that fashion. This bill should be named for them.

So somewhere along the line, probably sometime tomorrow, sometime by midnight tonight possibly, that amendment will be offered.

But I have another amendment that I am going to offer before I offer that, and I will get to that in a moment. I shall explain the amendment that was turned down by the Senate.

Why? Because the Senate opposed the revision of my amendment? No. Because when this bill finally passes it will have in it my amendment, but it will not be the amendment offered by the Senator from Alabama. It will probably be the Kennedy amendment that is going to stay there, just like the laws of the Medes and Persians—unchangeable, no amendments to be acceptable to it.

It has this very same provision in it that I sought to offer to the bill. The difference between my approach and the approach of the Senator from Massachusetts (Mr. KENNEDY) was that my amendment would permit of other amendments.

Well, this is a deliberative body. It used to be called the greatest deliberative body in the world. I do not suppose anybody would make that statement today.

This is a deliberative body of sorts, and we ought to deliberate on these matters and not just ram a bill through without any thought of its contents.

There is too much polarization here in the Senate. At the time an amendment is offered there are some four or five Senators in the Chamber. Senators stream in in the last 5 minutes of the rollcall period, and they say, "Well, whose amendment is it? Who is for it?"

When it is found that the Senator from Alabama offered the amendment, immediately it has serious opposition. That is not on its merits, Mr. President, because I say eventually the Senate will adopt this amendment. Mark my word, it will eventually adopt it—if the matter stays before the Senate.

I am hopeful, Mr. President, that we will not have something of a logjam here of lawyer subsidization bills. I have another bill that seeks to call this legislation what it is. It seeks to amend the title by calling it the Civil Rights Attorney's Relief Act of 1976. We are going to have an opportunity to vote on that, I daresay.

Had the Kennedy amendment been adopted, being a substitute, the possibility of other amendments would have been wiped out.

Mr. President, my amendment, which was defeated by a large margin—I did not bother to look because I knew it would be tabled by the distinguished assistant majority leader—would have provided what? It was a simple amendment.

The bill says that in any action or proceeding to enforce a provision of section 1977, 1978, 1980, or 1981 of the revised statutes, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the cost.

My amendment would have said we would also put in the provision for title

IX that guarantees one and all as to any program that is financed directly or indirectly by the Federal Government; there shall be no sex discrimination.

Well, sometimes there is sex discrimination. Sometimes it is thought there is sex discrimination when there is no sex discrimination. But these matters can be decided where an action is brought by the person who feels aggrieved by some entity that receives support directly or indirectly from the Federal Government. They have a right to bring action against the offending employer, the offending agency, or the offending entity.

Without my amendment, Mr. President, such a person seeking to strike down the discrimination against her or against him would have to pay his or her own attorney fee, whereas those who sue on other civil rights actions would, under the bill, have their attorney fee paid.

Mr. President, come to think of it, it looks to me as if the Senate, in turning down my amendment, was guilty of sex discrimination right there. We do not have to go out to an outside entity to show sex discrimination because the Senate has turned down an effort by the Senator from Alabama to give those who are aggrieved as a result of sex discrimination the same right to have their attorney fees paid as are those who are complaining of discrimination under other civil rights statutes.

I wonder if the Senate, in its haste to table this amendment, realizes what it has done. It may be that the way to reach that would be to move to reconsider the vote by which the amendment was tabled so that the Senate would have an opportunity to right this little bit of discrimination in which those voting to table the amendment of the Senator from Alabama have indulged.

What was wrong with the amendment? Senators went to great lengths to table it because it was an amendment of the Senator from Alabama. In doing so they refused to give those who are injured through sex discrimination an opportunity to have their attorney fees paid when they seek redress while giving others feeling aggrieved by other civil rights statutes, an opportunity to have their attorney fees paid. Maybe we will hear something about that before long when some of our lady groups realize what has happened to them here by a vote of the Senate.

I do not see the logic of denying attorney fees in sex discrimination cases and providing attorney fees in discrimination by race, color, nationality, or religion.

Why discriminate against the ladies? That is what the Senate has done, those who voted to table.

The vote was 54 to table, 24 not to table. Apparently some few Senators realized what they were doing and got over on the nay side, because that is a little bit more than some of these votes have been running—24 opposition votes. Twenty-four Senators said that attorneys' fees should be allowed to those bringing actions against sex discrimination to a like extent as attorneys' fees are paid for those bringing actions for other civil rights discriminations. I would have felt that the Senate, having a long record of opposition to sex discrimination, would have voted for this amendment.

If the amendment had been adopted, there would be absolutely no necessity for the Kennedy substitute, because that is the only thing it does; it puts in that amendment. Perhaps the Senate is awaiting an opportunity to vote on that amendment. But what the Senator from Massachusetts said he was trying to accomplish would have been accomplished by the amendment of the Senator from Alabama.

Mr. President, we have a number of important measures on the calendar. We have a number of important conference reports to take up. But in the face of all of that, what is the Senate confronted with? A bill to provide for paying attorneys. That is all it is. Not one single bit of other substantive matter; not one single thing other than paying attorney's fees.

By and large, I say that attorneys have a way of taking care of themselves and making good fees. I do not believe they need a whole lot of protection. They do not need a whole lot of subsidization, Mr. President.

All the Senator from Alabama was trying to do by his amendment was put those who are victims of sex discrimination on the same basis of those who are victims of other types of discrimination. But the Senate has denied this right or this concession to those who are victims to sex discrimination. So I assume that no amendment, no matter how good, that is offered by the Senator from Alabama—or I daresay the Senator from North Carolina (Mr. HELMS), because we are cosponsors of some amendments—I doubt that any of those amendments would be accepted, no matter how good they are, because they did not think of them. An amendment offered by the Senator from Alabama or the Senator from North Carolina on this bill would not fare nearly so well as an identical amendment offered by those who are sponsors of the legislation. That is the reason why I say, Mr. President, that we have too much polarization here in the Senate. These measures ought to be considered on their merits, not on who offers the amendments.

I will say, too, Mr. President, that a bill such as this before the Senate, which has been singled out from all the bills on the calendar to be given the top priority, should not have a substitute adopted, as proposed by the Senator from Massachusetts (Mr. KENNEDY), that would cut off the right of Senators to offer amendments to the bill. That is a provision of the rules, Mr. President; and they are followed here in the Senate except when the shoe pinches a little bit, and then possibly there are variations from the rules. I doubt if they will vary that. Because once a substitute to a bill is adopted, no more amendments are in order. So what the Senator from Alabama was trying to do was get this amendment adopted without cutting off other amendments, and that is exactly what would happen now if no further debate were held on the amendment of the Senator from Massachusetts, and I am speaking on his amendment at this time.

So I do not feel that the matter of providing a method by which attorneys can bring actions on behalf of clients and assure them of collecting an attorney's fee—I do not believe that is the most important bill before the U.S. Senate or before the House of Representatives, to make provision for a method by which attorneys can be sure of obtaining fees for their services.

Mr. President, I was somewhat intrigued by the recital in the committee report to the effect that since 1964 every major civil rights law passed by Congress has included or has been amended to include one or more fee provisions.

What does that say? It says that every major civil rights law, and I am going to comment on the word "major" in a moment, passed by Congress since 1964 has included or has been amended to include one or more fee provisions.

What is the necessity of this bill if every bill passed since 1964 contains provision for attorneys' fees? What is the need of this bill providing for attorneys' fees under certain specified sections of section 722 of the Revised Statutes?

If in every major civil rights law passed by Congress they have a fee provision, it does not seem to me that there should be need for reenacting such a provision.

I do not know. I am simply going by what the Judiciary Committee that acted on this bill has to say about the bill. I am wondering, Mr. President, if the key to the matter is the phrase here that every major civil rights law makes provision for attorneys' fees?

I am wondering if the sponsors of this legislation, being the majority members of the Judiciary Committee, who I imagine were in on the writing of this committee report, they feel that these civil rights are minor civil rights. They say every major civil rights law has a fee provision. So I am wondering if they consider these sections minor. Mr. President, I disgress a moment. I might say that not one single word of explanation has been offered for the need for this bill, not one word. They call it up. Senator KENNEDY offers his amendment-killing substitute, and it would have been passed in a matter of seconds if there had not been a few Senators who wanted to discuss the matter.

So not one word of explanation has been given about this bill, S. 2278. The author of the bill is not even here. That was not necessary. Simply call it up and it will pass. What is the use having the author here to explain it?

I do not believe legislation ought to be stampeded through the Senate in that fashion.

I think we need to study these bills a little bit and find out the purpose of them. Why this great interest in attorneys' fees?

The Senator from Alabama on coming to the Senate retired completely from the legal profession as an active practitioner, certainly as an active practitioner for compensation. He has, a I be-

lieve, filed three amicus curiae briefs for public bodies in his State and that had matters pending before the Supreme Court, feeling that such talents that he might have were at the disposal of the people of Alabama, without compensation.

So I did file these amicus curiae briefs on important legal points before the Supreme Court of the United States. That has been the extent of the law practice of the Senator from Alabama since he has been in the Senate.

As I say, I have great regard, respect, and love for the legal profession.

Mr. President, I am at a loss to know or to understand what is the need for this legislation and what is the reason for the haste at this time after delay of some 3 years with respect to this bill. I will give a little history of that in a moment.

Yes, I have great respect for the legal profession. I want to see them adequately compensated. The committee report says that every major civil rights law that has passed since 1964 has a fee provision in it.

Now they come along with this and, in the face of this statement that all civil rights, major civil rights, laws passed since 1964 have attorneys' fees provisions in them, they bring up this bill.

Let us study the history of this bill a little bit, and I got by the committee report and that is, in the main, what I am relying on.

The committee report says this very same bill, not the same number, because we are in a different Congress, but the very same bill came up in a subcommittee of the Judiciary Committee in 1973. That was a subcommittee called Subcommittee on Representation of Citizen Interest of the Judiciary Committee. Then, Mr. President, there is a great big hiatus after that paragraph. The subcommittee acted on it, so says the report, and then nothing is said about committee action in 1973, and nothing is said about committee action in 1974. So what happened to it in committee? Did the full committee kill it? What happened to it? That is something I believe the Senate needs to know.

Is the champion of the bill present on the floor? If so, when I get through with my remarks I hope he will speak on the matter and tell us what happened to this bill in 1973 after the subcommittee approved it.

They do not say the Judiciary Committee approved it. They say the subcommittee approved it.

So, nothing happened to it in 1973. Nothing happened to it in 1974, which closed out the 93d Congress and, of course, the bill died as provided by law.

If, Mr. President, it had already been killed by the committee, the report is silent. If this was such a good bill back in 1973 and they said there were more than 30 witnesses who testified, I make this point:

I looked at the hearings, and a large number of lawyers came in and testified. I do not believe that even one lawyer testified against this bill back in 1973. Why would they be expected to do so? It provides that they are going to get paid for their services in certain areas—not on fighting sex discrimination. The Senate has decided that that could not be done. They do not want to do it, at any rate. It provides for attorneys' fees in other areas, but nobody says why it is necessary to have this bill, in the face of the fact that the committee report says that every major civil rights bill since 1964 has had an attorney's fee provision in it. So why is this bill necessary?

I wish that a champion of the bill, if there be such, would come forward and explain some of these matters after I have concluded my remarks. This would be very interesting to hear as to that.

They say that in 1975, the provisions of this bill were incorporated in a proposed amendment to S. 1279, extending the Voting Rights Act to 1965; and they reported it as a part of S. 1279 in the 94th Congress, back in 1975. They reported it on July 18, 1975.

Mr. President, that bill never was brought up on the Senate floor. So here we have a bill with a hiatus from 1973 to 1976. There is no explanation of why they wait until now to bring it up. This bill has been on the Senate calendar since June 29 of this year—almost 3 months. During that time, we had short sessions.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question only?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Can the Senator state how long he will talk on the D.C. appropriations conference report? Senators would like to vote on the conference report and go home.

Mr. ALLEN. I would be willing to yield for a motion to adjourn or recess, right now.

Mr. ROBERT C. BYRD. How about a vote on the D.C. appropriations conference report now?

Mr. ALLEN. And then adjourn until tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. At what time?

Mr. ROBERT C. BYRD. Eleven o'clock.

Mr. ALLEN. The Senator has made a fine proposal, and I wish he had made it earlier. However, there are a few more facts I should like to bring into play. The adjournment motion will be made immediately, and there will be no more business transacted?

Mr. ROBERT C. BYRD. That is correct. We would like to vote on the D.C. appropriations conference report first.

Mr. ALLEN. I said at the outset of my remarks that I favored the bill.

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

Mr. ALLEN. I yield.

Mr. LONG. I do believe, Mr. President, that the Senator has made some very significant points that the Senate would do well to consider and think about overnight and during the next day or so, before this matter is disposed of.

In my judgment, this idea of having the Federal Government pay everybody who sues somebody can really create havoc with this great country of ours. We have had this type situation where we paid lawyers to try to get people off the welfare rolls who did not belong there and who tried to do something about fraud on our system.

For example, the Senator from Louisiana has been trying to get the Government to prosecute some of these people who are fraudulently using other people's social security numbers to obtain improper benefits. So far as I know, they have not yet made the first successful prosecution. They have had thousands of cases and have recommended only about six to be prosecuted.

One of those cases involves more than 7,000 violations. That is just what the Government has charged the person with. For all we know, the person might be guilty of 70,000 violations of using other people's social security numbers. The Government is alleging 7,000 violations in that particular case. That is what the Government thinks it knows. The person might have been committing 10 times that much fraud, for all we know.

In a case in New Orleans, which I think is not at all unusual, 1 person is on the welfare rolls under 18 names. The Government proceeds to pay somebody, in the first instance, to try to protect the people and to try to bring this mischief to an end; and not much is accomplished in that respect many times—altogether too little. On the other side, the Government is then proceeding to pay the lawyers to defend the culprits.

Mr. ALLEN. That is the truth.

Mr. LONG. I have contended—and I believe this to be true—that nobody but an absolute idiot would pay somebody to sue himself. Yet, that is what this Government does—it pays lawyers to sue the Government. If the Government is wrong, it should cease its course of wrongful conduct, rather than pay a lawyer to sue itself. Think of what a waste of Government money it is to pay someone to sue the Government and then pay another lawyer to defend the Government.

We have just seen this fiasco, which surprised me, but it was voted on the revenue sharing bill, to encourage everybody in America to sue every little town. Podunk will be sued, Cripple Creek will be sued, Dry Prong will be sued. Every little town in America will be sued, and by the time they get through spending the money to defend themselves, it may exceed the revenue sharing money—to be sued on any sort of basis that anyone thinks he might be discriminated against because of religion or because of age or because of disability or whatever.

As the Senator knows, the amendment on that bill says that if the person is successful in the suit, the Government will have to pay him an attorney's fee.

Mr. ALLEN. That is correct.

Mr. LONG. To encourage the people to sue every little county, every little municipality, no matter how small, in the entire United States, even if they are getting only $5 of revenue-sharing money. The Government still can be paying somebody an attorney fee to sue them for their entire budget because they are alleged to have discriminated in some respects, on four or five different grounds.

Mr. ALLEN. That is certainly true.

Mr. LONG. I am not contesting one's right to sue, but a great number of these cases are not well taken. In fact, I think that most of the people who feel sorry for themselves and feel discriminated against would do well to reconcile themselves by recognizing that everybody has this problem. Everybody feels at one point or another in life that he is disappointed; something does not go his way. One would like to feel that he is discriminated against, so he wants to go to court and sue about it. For the Government to be paying the lawyers to sue people and to sue every little municipality and then to sue everybody that one can think of, on whatever basis, can be a never-ending thing and absolutely ridiculous.

People expect us to give them an accounting of their tax money. One could say, "Well, the Government only pays when the person is successful in the suit." But the Senator knows that a lot of these cases are compromised. So if someone is being sued and wants to get the litigation off his back, then, of course, the amount that he would settle for would be higher because the plaintiff knows that if he is successful in a lawsuit, he can make them pay a lawyer's fee.

Mr. ALLEN. That is exactly right. That is what I am trying to fight.

Mr. LONG. Now, a plaintiff lawyer, starting out just like anyone, hoping to make it through a starvation period in the practice of law—I can recall those days when I would sue anybody about anything, just at the drop of a hat.

One lawyer stopped me on the street one time to express his outrage that I was suing his client and the case was so farfetched. I asked him this question: "Did you have that man as your client before I filed the lawsuit against him?"

He said, "No, he came to me when you sued him."

I said, "What are you complaining about? I got you a client by filing that lawsuit."

I am not the only young plaintiff lawyer, I am sure, who started out practicing by just suing people about anything that somebody might want to allege. If I did not have anything better to do, I would go sue them.

Mr. ALLEN. The Senator did not have any guarantee by the Government that he would be paid an attorney's fee out of the taxpayers' pockets; did he?

Mr. LONG. I would drive somebody wild, just to be active. A young fellow, just starting a law practice, if he did not have anything else to do, felt, if he had a client in court, after a while, people would get acquainted with the idea that he was around and see him down there. They might bring their business to him. It would sort of get a young lawyer publicity. Lawyers were not supposed to advertise, but they would read your name in the legal news, that sort of thing. So people know you are active, that you are around.

Young people are known to be pretty busy, just stirring up activity in their early days as a lawyer.

Here, the Government would be paying the lawyers' fees and subjecting people——

Mr. ALLEN. Stirring up litigation.

Mr. LONG. Theoretically, they do not stir it up, but as a practical matter, they do, because if one knows that they make a settlement, this is the point of what they would have to pay if they lost the lawsuit, so they would have to pay more to settle a nuisance suit, because the Government is there to pay the lawyers' fee.

Mr. ALLEN. That is true.

I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I had indicated that the Senate would come in at 11 tomorrow. Will the Senator object if we come in at 9:30?

Mr. ALLEN. I would rather stick to what the Senator said, come in at 11 o'clock.

Mr. ROBERT C. BYRD. I had promised Senator PELL we would come in at 9:30 a.m.

Mr. ALLEN. The other order was not entered. It would not take unanimous consent.

Mr. ROBERT C. BYRD. No, but I had told Senator PELL we would come in at 9:30 a.m. I think he canceled a dental appointment on that basis.

Mr. ALLEN. All right.

Mr. ROBERT C. BYRD. If the Senator will not object——

Mr. ALLEN. Are we going to recess or adjourn?

Mr. ROBERT C. BYRD. Adjourn.

Mr. ALLEN. I have no objection, but let us not ask unanimous consent; let us just move it. That is all right with the Senator.

Mr. ROBERT C. BYRD. Will the Senator not request a yea-and-nay vote on it?

Mr. ALLEN. No, sir. I did not request it.

Mr. ROBERT C. BYRD. I say the Senator would not request a yea-and-nay vote on a motion to adjourn until 9:30 a.m.?

Mr. ALLEN. No.

Mr. LONG. Mr. President, I see no point to a yea-and-any vote on it. I ask unanimous consent that the yea-and-nay order be vacated.

Mr. ROBERT C. BYRD. Mr. President, the Senators have waited with the understanding that we would have a rollcall vote. I am not interested in a yea-and-nay vote. As a matter of fact, we are 10 votes over the alltime record today: 611 votes have been cast until today, and today there have been 10 votes, making 621.

I will not object, but Senators have stayed around, thinking there is going to be a vote. I shall not object.

Mr. JACKSON. Let us vote. I have waited 2 hours.

Mr. LONG. Mr. President, it seems to me we would do well just to vacate the order and it will save that much more time.

I ask unanimous consent that the yeas and nays be vacated.

Mr. JACKSON. I object.

The PRESIDING OFFICER. Objection is heard.

QUORUM CALL

Mr. LONG. Then, Mr. President, I suppose we shall just have to take a little more time, because it seems to me it is a waste of time to have a rollcall vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

Mr. ALLEN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 46 Leg.]

Abourezk	Helms	McIntyre
Allen	Huddleston	Moss
Burdick	Jackson	Nelson
Byrd, Robert C.	Long	Pearson
Chiles	Magnuson	Ribicoff
Durkin	Mathias	Sparkman
Hart, Gary	McClellan	Stone

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Ohio (Mr. GLENN), the Senator from Montana (Mr. MANSFIELD), and the Senator from South Dakota

(Mr. McGOVERN) are absent because of official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The result was announced—yeas 66, nays 3, as follows:

[Rollcall Vote No. 622 Leg.]

YEAS—66

Abourezk	Haskell	Nunn
Allen	Hatfield	Packwood
Bartlett	Hathaway	Pastore
Bellmon	Helms	Pearson
Bentsen	Hollings	Percy
Brooke	Hruska	Proxmire
Bumpers	Huddleston	Ribicoff
Burdick	Humphrey	Roth
Byrd, Robert C.	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Scott,
Clark	Laxalt	William L.
Cranston	Leahy	Sparkman
Culver	Long	Stafford
Curtis	Magnuson	Stevens
Durkin	Mathias	Stevenson
Eagleton	McClellan	Stone
Eastland	McClure	Symington
Fong	McIntyre	Thurmond
Garn	Morgan	Williams
Gravel	Moss	Young
Griffin	Muskie	
Hart, Gary	Nelson	

NAYS—3

Biden	Metcalf	Weicker

NOT VOTING—31

Baker	Fannin	McGovern
Bayh	Ford	Mondale
Beall	Glenn	Montoya
Brock	Goldwater	Pell
Buckley	Hansen	Randolph
Byrd,	Hart, Philip A.	Stennis
Harry F., Jr.	Hartke	Taft
Cannon	Johnston	Talmadge
Church	Kennedy	Tower
Dole	Mansfield	Tunney
Domenici	McGee	

So the motion was agreed to.

The PRESIDING OFFICER (Mr. STONE). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1977 — CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 15193, making appropriations for the government of the District of Columbia.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. McGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Ohio (Mr. GLENN), and the Senator from South Dakota (Mr. McGOVERN) are absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The result was announced—yeas 69, nays 0, as follows:

[Rollcall Vote No. 623 Leg.]

YEAS—69

Abourezk	Hart, Gary	Nunn
Allen	Haskell	Packwood
Bartlett	Hatfield	Pastore
Bellmon	Hathaway	Pearson
Bentsen	Helms	Percy
Biden	Hollings	Proxmire
Brooke	Huddleston	Ribicoff
Bumpers	Humphrey	Roth
Burdick	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Case	Javits	Scott,
Chiles	Laxalt	William L.
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Magnuson	Stevens
Curtis	Mathias	Stevenson
Domenici	McClellan	Stone
Durkin	McClure	Symington
Eagleton	McIntyre	Thurmond
Eastland	Metcalf	Weicker
Fong	Morgan	Williams
Garn	Moss	Young
Gravel	Muskie	
Griffin	Nelson	

NAYS—0

NOT VOTING—31

Baker	Ford	McGovern
Bayh	Glenn	Mondale
Beall	Goldwater	Montoya
Brock	Hansen	Pell
Buckley	Hart, Philip A.	Randolph
Byrd,	Hartke	Stennis
Harry F., Jr.	Hruska	Taft
Cannon	Johnston	Talmadge
Church	Kennedy	Tower
Dole	Mansfield	Tunney
Fannin	McGee	

So the conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$259,797,400".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert: "$84,453,300".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$36,586,700".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ", exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Title II—Department of Transportation Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

Mr. CHILES. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate in disagreement numbered 3, 6, 16, 48, and 60.

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

ROUTINE MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed without amendment the following bills:

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiwo County, Okla.;

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953;

S. 2286. An act to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.; and

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

The message also announced that the House has passed the bill (S. 3095) to increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1414) to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

The enrolled bills was subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 6:20 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following bills:

S. 2004. An act to eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Okla.

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953.

S. 2286. An act to amend the act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, N. Mex.

S. 2511. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

H.R. 14973. An act to provide for acquisition of lands with the international Tijuana River flood control project, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL— (S. Doc. No. 94-256)

A letter from the Comptroller General reporting on deferral No. D-76-54B contained in the President's 21st special message for fiscal year 1976; referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Labor and Public Welfare, and ordered to be printed.

REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General transmitting a list of reports of the General Accounting Office of the month of August 1976 (with accompanying papers); to the Committee on Government Operations.

REPORT OF THE HOOVER INSTITUTION OF WAR, REVOLUTION AND PEACE

A letter from the Secretary of the Treasury transmitting the report on the expenditure of funds received by the Hoover Institution on War, Revolution and Peace (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petition, which was referred as indicated:

A resolution adopted by the South Central Louisiana Council of Chambers of Commerce relating to the policy of the Federal Energy Commission in regulating energy; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

S. 3819. A bill for the relief of Commander Edward White Rawlins, U.S. Navy (retired) (Rept. No. 94-1268).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 547. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1302 and H.R. 13555 (Rept. No. 94-1269).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with amendments:

S. 3204. A bill to provide for the study of certain lands to determine their suitability for designation as wilderness (title amendment) (Rept. No. 94-1270).

By Mr. MORGAN, from the Committee on Public Works:

S. Res. 560. An original resolution waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of H.R. 14360, an act amending the John F. Kennedy Center Act to authorize funds for repairs.

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 5446. An act to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Rept. No. 94-1271).

EXECUTIVE REPORTS OF COMMITTEES

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

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

The following-named persons to be Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

William W. Scranton, of Pennsylvania.

W. Tapley Bennett, Jr., of Georgia.

George McGovern, U.S. Senator from the State of South Dakota.

Howard H. Baker, Jr., U.S. Senator from the State of Tennessee.

Rev. Robert P. Hupp, of Nebraska.

The following-named persons to be Alternate Representatives of the United States of America to the 31st Session of the General Assembly of the United Nations:

Albert W. Sherer, Jr., of Illinois.

Jacob M. Myerson, of South Carolina.

Nancy V. Rawls, of Georgia.

Stephen Hess, of the District of Columbia.

ERSA Hines Poston, of New York.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. SPARKMAN. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign 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 of September 9, 1976, at the end of the Senate proceedings.)

By Mr. PASTORE, from the Committee on Commerce:

Louis P. Terrazas, of Texas; Clyde M. Reed, of Kansas; and Charles W. Roll, Jr., of New Jersey, to be members of the Board of Directors of the Corporation for Public Broadcasting.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 21, 1976, he presented to the President of the United States the following enrolled bill:

S. 2371. An act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

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. McINTYRE:

S. 3837. A bill for the relief of Lewis & Saunders, Incorporated. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 3838. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. THURMOND:

S. 3839. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery. Referred to the Committee on Veterans' Affairs.

By Mr. TAFT:

S. 3840. A bill for the relief of Wing Fai Yan. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 3841. A bill for the relief of Alaska Methodist University in Anchorage, Alaska. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 3842. A bill to amend title 38 of the United States Code relating to condominium home loans. Referred to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McINTYRE:

S. 3837. A bill for the relief of Lewis & Saunders, Incorporated. Referred to the Committee on the Judiciary.

Mr. McINTYRE. Mr. President, I introduce for appropriate reference a bill for the relief of Lewis and Saunders, Inc., of Laconia, N.H.

I would like to make some brief comments regarding the purpose of this legislation.

Lewis and Saunders, Inc., is a very fine, small business engaged in the precision bending, coiling, welding, and other fabrication of metal tubing.

This company has performed work for companies throughout the country and it has done much work which has gone into our defense structure.

Lewis and Saunders had a subcontract with Murdock Machine and Engineering Co. of Utah. This contract was to provide supplies for the U.S. Navy. After carrying out its responsibility under this contract Lewis and Saunders found that Murdock had gone bankrupt and left this small business holding a $91,914.27 commitment from Murdock.

I contacted the Small Business Administration, the Senate Select Committee on Small Business, the Navy Department, and others. No relief for Lewis and Saunders is available through the Small Business Emergency Relief Act or other procedures. I believe this is unfair to a small business attempting to do its part in our defense effort. I believe it is not right that Lewis and Saunders should suffer because the prime contractor has failed.

I realize that $91,000 does not seem a large amount of money but to one of our Nation's small businesses this can be the difference between profit and loss. We have had enough losses to our small businesses. We must begin to put a stop to it.

I urge early, and I hope, serious consideration can be given this bill.

By Mr. BIDEN:

S. 3838. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. BIDEN. Mr. President, I am today introducing a bill to regulate the practices of independent debt collectors. This legislation would add a new title to the Consumer Credit Protection Act, and resembles H.R. 13720 which has been carefully considered and passed by the House. Although, because of the press of Senate business, we will be unable to act on the bill this year, its introduction now will serve notice of my intent to pursue this subject early in the 95th Congress, and will permit interested parties to review and comment on the proposed law.

My bill addresses the problems of harassment, threats, misrepresentation, and invasion of privacy which are too often associated with the practices of professional debt collectors. These are the people who undertake to collect overdue accounts for others, and who sometimes prey upon the fear and ignorance of vulnerable consumer debtors in efforts to milk the last possible nickel of repayment. The bill specifies the nature and number of contacts which debt collectors may have with the consumer and with others, and prohibits a whole array of harassing, deceptive, and unfair collection techniques. It also bars certain of the procedural gimmicks debt collectors often use when they take a debtor to court.

The bill calls for primary enforcement by the Federal Trade Commission, and complementary enforcement powers are given to individual consumers and State law enforcement officials.

Like the House bill, this legislation deals exclusively with the independent, third-party debt collection agency, and does not directly regulate the practices of the creditor who originates the debt or who undertakes his own collection efforts. This distinction is both understandable and appropriate. The independent collectors, by common practice, are recognized as a separate industry. They have no particular concern for maintaining good customer relations with the debtors they pursue. And, above all, the independent collectors generate a disproportionate number of the complaints about collection practices.

Mr. President, it is critical that the American public understand the purpose and need for this legislation. The House hearings, and my own investigation, have documented some intolerable collection practices engaged in by third-party debt collectors:

Constant harassment of the consumer debtor by phone calls at all hours of the day and night, at home and at work;

Foul, insulting and abusive language;

Devious tricks used to get friends and neighbors to provide information about the debtor; Outright impersonation of government officials, either by oral statements or by the use of sham "official" documents;

Threats of bodily harm, or arrest, or of publication of the consumer's financial plight;

Tacking unauthorized charges onto the balance owing;

Taking postdated checks and then depositing them before the due date in order to threaten criminal prosecution;

Using aliases or "desk names" so that consumers can never identify the individual collector.

These are the kinds of practices at which this bill is aimed. I believe it is imperative that we pass legislation to curtail these practices, and here is why:

The States have failed to provide adequate protection in this area. Data compiled in the House indicates that only 37 States have any legislation at all dealing with debt collection practices, and a number of these jurisdictions have only modest licensing laws which contain no limitations on collection practices. A number of supposed State regulatory bodies are made up dominantly of collectors themselves.

My own home State of Delaware, I am sorry to say, does not even have a licensing requirement for debt collectors. Yet of 60 companies whose collection practices generated complaints to the Consumer Protection Division in Wilmington, 33 were independent collectors. There is a civil case now pending in Delaware in which a widow is suing certain collectors on grounds her husband was literally hounded to death for a $20 debt.

Some of the worst practices are effectively beyond State's control where the collector works from outside the jurisdiction—by phone, letter, or telegram. Thus the authorities in the consumer's State are powerless to reach the offending collector. This interstate dimension of the problem itself justifies Federal action.

My contact with the offices of several State attorneys general, and State consumer protection offices, indicate that there is support for Federal legislation in those States which have strong collection practices laws as well as in those which have none. In the former, a Federal law will enhance local efforts and assure control over interstate collection practices; in the latter it will fill a void and take some pressure off of the bankruptcy courts and the consumer debt counsellors who have been the only ones to give solace to consumers targeted by unscrupulous collectors.

On any scale of human values, the practices addressed in this bill ought to offend our sensibilities. And we ought to note that the consumers who are the beneficiaries of this bill are human beings, entitled to human dignity and compassion in what are often financial difficulties beyond their control.

Some will say that this bill provides a haven for deadbeats. I do not believe it. As prestigious a group as the recent Bankruptcy Commission concluded that few consumers intentionally avoid their legitimate debts. Rather, their delinquencies follow from industry layoffs, from unexpected medical bills, or from good faith disputes over the obligation itself. Professor Caplovitz, in his landmark study of "Debtors in Default," concludes that a good measure of the resistance to debt collectors arises from anger at their collection techniques. Indeed it defies belief to think that the true deadbeat would be complaining of collection methods. But until our society can assure its members stable employment, adequate health care, and high quality goods and services, I believe that society must exhibit some compassion for the debtor in trouble.

I applaud my colleagues in the House, and particularly the distinguished chairman of its Consumer Affairs Subcommit-

tee, for taking the lead on this legislation. But I believe there are additional provisions needed to make this the best possible law, and for this reason my bill differs somewhat from the House bill. For example, it makes clear that it applies to both pre-judgment and to post-judgment collection practices; it adds several specific items to the list of prohibitions—for example, threats to destroy credit ratings, and refusals to accept good-faith partial payments—and it flatly prohibits the taking of post-dated checks.

My bill also would apply to all collectors who use any instrumentality of interstate commerce—the phone and the mail, particularly. This aspect of my bill corrects what I believe is an unfortunate loophole in the House version: H.R. 13720 does not apply to collectors who do substantially all their work within one State. That exception means that one-State collectors are more favorably treated than others. It also creates an inducement for collectors to avoid this law by incorporating separately in each State and thus artificially limiting their activities to that State. Just as the Truth in Lending Act applies to all credit transactions, this bill should cover all collection practices.

More substantively, my bill provides for joint liability on the part of the creditor who assigns the debt for collection where that creditor has reason to know that the debt collector engages in unlawful practices. I believe this provision is particularly important, for it forces the original creditor to exercise care and oversight in the selection of the debt collectors he uses.

My bill also permits enforcement of its provisions by State and local officials authorized to do so under the State law. This limited "parens patriae" idea adds a useful dimension to the enforcement structure under the act, for local officials may be better able to deal with those small, one- or two-person collection agencies, perhaps operating out of a private home—agencies which might escape supervision by the Federal Trade Commission.

Mr. President, I look forward to receiving comments and critiques on this legislation and I hope that the Banking Committee and the full Senate will be able to act expeditiously on it next year.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—DEBT COLLECTION PRACTICES

"Sec.
"801. Short title.
"802. Definitions.
"803. Acquision of location information.
"804. Communication in connection with debt collection.
"805. Harassment or intimidation.
"806. False or misleading representation.
"807. Unfair practices.
"808. Validation of debts.
"809. Multiple creditors.
"810. Legal actions by debt collectors.
"811. Civil liability.
"812. Criminal liability.
"813. Administrative enforcement.
"814. Reports to Congress by the Commission and Attorney General.
"815. Relation to State laws.
"816. Exemption for State regulation.
"817. Effective date.

"§ 801. Short title

"This title may be cited as the 'Debt Collection Practices Act'.

"§ 802. Definitions

"(a) The definitions set forth in this section are applicable for purposes of this title.

"(b) The term 'Commission' means the Federal Trade Commission.

"(c) The term 'consumer' means any individual oligated or allegedly obligated to repay any debt.

"(d) The term 'creditor' means any person who offers or extends credit creating a debt or to whom a debt is owed.

"(e) The term 'debt' means any obligation to pay money arising out of a transaction in which credit is offered or extended to an individual, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

"(f) The term 'debt collector' means any person who engages in any business the principal purpose of which is the collection of any debt or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, and who uses any instrumentality of interstate commerce in connection with such collections. The term includes a person who furnishes or offers to furnish forms or a written demand service represented to be a collection technique, device, or system to be used to collect debts, if the forms or other writing contain the name of a person other than the creditor in a manner indicating that a request or demand for payment is being made by a person other than the creditor even though the form directs the consumer to make payments directly to the creditor rather than to the other person whose name appears on the form. The term does not include any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties, or any attorney acting in a professional capacity on behalf of a client.

"(g) The term 'location information' means, with respect to any individual, his place of abode, his telephone number at such place, and his place of employment.

"(h) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

"(i) The term 'communication' means conveying information directly or indirectly to any person through any medium, except that with respect to section 804(a)(3), the term 'communication' means actual contact with the consumer which includes a brief statement in any manner of the present intentions of the consumer with respect to the repayment of the debt. The term does not include conveying information—

"(A) to a consumer reporting agency as defined in the Fair Credit Reporting Act, or

"(B) to an employer of the consumer in the course of garnishment or other post-judgment judicial proceedings.

"§ 803. Acquisition of location information

"(a) No debt collector may, in connection with the collection of any debt, communicate other than by telephone, mail, or telegram with any person for purposes of acquiring location information about any consumer.

"(b) Any debt collector communicating with any person for the purpose of acquiring, location information about any consumer shall—

"(1) identify himself and, if expressly requested, his employer;

"(2) not state that such consumer owes any debt;

"(3) not communicate with such person more than once unless expressly requested to do so by such person, except for one additional communication to reconfirm location information;

"(4) not communicate by post card or similar device;

"(5) not use any language or symbol, other than the debt collector's address, on any envelope when using the mail or telegrams, except a debt collector may use his company name provided that such name does not indicate that the company is in the debt collection business;

"(6) not use any language or symbol in the contents of mail or telegrams that indicates that the communication relates to the collection of a debt, other than the identification of the person as a debt collector; and

"(7) not communicate with any person pursuant to this section, once the debt collector knows the consumer is represented by an attorney.

"§804. Communication in connection with debt collection

"(a) COMMUNICATION WITH THE CONSUMER GENERALLY.—No debt collector may initiate communications with a consumer in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) before 8 antemeridian or after 9:00 postmeridian or at any unusual time or time known to be inconvient to the consumer;

"(2) after the initial communication, if the debt collector knows the consumer is represented by an attorney, unless such attorney is unjustifiably nonresponsive to communication from such debt collector; or

"(3) after the initial communication, more than two times during any seven-calendar-day period.

"(b) COMMUNICATION WITH THE CONSUMER AT THE PLACE OF EMPLOYMENT.—Without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) no debt collector may communicate with a consumer in connection with the collection of any debt at the place of employment of the consumer more than one time; or

"(2) if the debt of a consumer is in the amount of $100 or more, and such debt is at least sixty days overdue, and if the consumer has not furnished the creditor with a telephone number where the consumer can be reached during the consumer's non-working hours, after 8 antemeredian and before 9 postmeridian, no debt collector may communicate with a consumer in connection with the collection of any debt more than twice in any thirty-day period at the place of employment of the consumer.

"(c) COMMUNICATION WITH THIRD PARTIES.—Except as provided in section 803 with regard to location information, no debt collection may communicate with any person other than the consumer or his attorney in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction.

"(d) CEASING COMMUNICATION.—When a consumer absolutely refuses to pay or even discuss an account a debt collector shall cease further direct collection efforts with

the exception of advising the consumer that the collector's further efforts are being terminated and that there is a possibility of an attorney invoking the creditor's remedies locally available.

"(e) For purposes of subsections (a), (b), (c), and (d), the term "consumer" shall include the consumer's spouse, parent (if the individual is a minor), guardian, executor, or administrator.

"(f) PLEADINGS AND PROOF.—In any action brought by a consumer against a debt collector for failure to comply with this section, it shall be the duty of the consumer to plead both the existence of a communication from the debt collector and the lack of consent of the consumer thereto, and to make a prima facie showing that the communication took place and that there was no such consent. A prima facie showing that consent was not obtained may consist of testimony by the consumer. Upon such a prima facie showing, the burden of going forward shall be with the debt collector.

"§ 805. Harassment or intimidation

"No debt collector may harass or intimidate or threaten or attempt to harass or intimidate any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of abusive or profane language.

"(3) The publication of a list of consumers who allegedly refuse to pay debts.

"(4) The advertisement for sale of any debt to coallegedly refuse to pay debts.

"(5) Any communication to acquire location information about a consumer if the debt collector has such information or does not reasonably believe that the person contacted has access to such information.

"(6) The making of harassing or threatening phone calls or visits to the home or place of employment of a consumer or his spouse or calling any person repeatedly or constantly.

"§ 806. False or misleading representation

"No debt collector may make or threaten or attempt to make any false or misleading representation to any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) Any false representation indicating that the debt collector is acting for or on behalf of the United States or any State, including the use of any badge, uniform, or any facsimile thereof of any law enforcement agency.

"(2) The false representation of—

"(A) the character, amount, or legal status of any debt; or

"(B) any services rendered or compensation which may be received by any debt collector for the collection of a debt.

"(3) The false representation that any individual is an attorney.

"(4) The false representation that nonpayment of any debt will result in the arrest or imprisonment of any consumer or the seizure, garnishment, attachment, or sale of any property or wages of any person.

"(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

"(6) The false representation that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

"(A) lose any defense to payment of the debt; or

"(B) become subject to any practice prohibited by this title.

"(7) The false representation that the consumer committed any crime or other conduct in order to disgrace the consumer.

"(8) The false statement to any person (including any consumer reporting agency) that a consumer is willfully refusing to pay a debt.

"(9) The false representation that any writing (including any seal, insignia, or envelope) is authorized, issued, or approved by any court or agency of the United States or any State.

"(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

"(11) The false representation that any person is seeking information in connection with a survey.

"(12) The false representation that any person has a pre-paid package for the consumer.

"(13) The false representation that a sum of money or valuable gift will be sent to the addressee if the requested information is presented.

"(14) The false representation that accounts have been turned over to innocent purchasers for value.

"(15) The false representation that any debt has been turned over to an attorney.

"(16) The false representation that documents are legal process forms.

"(17) The use in any communication by any debt collector or his employees or agents of any alias or fictitious name.

"(18) The false representation that the debt collector will communicate adverse credit information to any person.

"§ 807. Unfair practices

"No debt collector may engage in the following practices with respect to any person in connection with the collection of any debt:

"(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) by such debt collector unless such amount is expressly authorized by the agreement creating the debt and is legally chargeable to the consumer, or unless such amount is expressly authorized by a court of competent jurisdiction.

"(2) The solicitation or acceptance by a debt collector from a consumer of any check or other payment instrument that is postdated more than three days.

"(3) Except as otherwise provided for communications to acquire location information under section 803—

"(A) The use or causing to be used in a debt collector's behalf in connection with the collection of any debt, of any forms, letters, questionnaires, other printed or written material, or other forms of communication which do not clearly and conspicuously disclose that such are used for the purpose of collecting or attempting to collect a debt or to obtain or attempt to obtain information concerning a consumer.

"(B) The placement in the hands of others for use in connection with the collection of any debt, of any forms, letters, or questionnaires or other printed or written material which do not clearly and conspicuously reveal which do not clearly and conspicuously repose of collecting or attempting to collect a debt or to obtain information concerning a consumer.

"(4) The selling of any debt collection related form to any person who is not a debt collector.

"(5) The refusal by any debt collector to accept any good faith tender of a partial payment, except that such acceptance alone shall not constitute a waiver of any rights of the debt collector.

"(6) Causing charges to be made to the consumer for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

§ 808. Validation of debts.

"Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall send the consumer a written notice containing the following information:

"(1) The amount of the debt.

"(2) The name and address of the creditor to whom the debt was originally owed as it appeared in the original credit agreement and the name of the creditor to whom the debt is currently owed.

"(3) A statement that unless the consumer, within thirty days, disputes the validity of the debt, or any portion thereof, the debt will be assumed as valid by the debt collector.

"(4) If the consumer notifies the debt collector in writing within the thirty-day period that the debt is disputed, the debt collector shall cease collection of the debt until such debt collector obtains certification of the validity of the disputed portion of the debt from the creditor and a copy of such certification is mailed to the consumer by the debt collector.

§ 809. Multiple creditors.

"If any consumer owes debts to more than one creditor and makes any single payment to any debt collector with respect to such debts, such debt collector shall not apply such payment to any debt disputed by such consumer.

§ 810. Legal actions by debt collectors.

"(a) A debt collector shall not bring any action on a debt against any consumer—

"(1) in the case of any action to enforce an interest in real property securing the consumer's obligation, in a court that does not have jurisdiction in the judicial district or similar appropriate legal entity in which such real property is located; or

"(2) in the case of any action not described in paragraph (1), in a court that does not have jurisdiction in the judicial district or similar appropriate entity—

"(A) in which such consumer signed the contract sued upon; or

"(B) in which the consumer resides at the commencement of the action.

"(b) A debt collector shall not cause process in any action on a debt to be served on a consumer unless such process is served—

"(1) by an officer or employee of the United States or any State in the course of the official duties of such officer or employee;

"(2) by an individual appointed or approved by the appropriate court for that purpose; or

"(3) by an individual authorized to serve process under the State law in which process is to be served.

"(c) A debt collector shall not utilize, in connection with the collection of any debt, any officer or employee of the United States or any State whose duties include the service of legal papers, except in the course of such duties.

"§ 811. Civil liability

"(a) Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of such failure;

"(2)(A) in the case of any action by any individual, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this paragraph shall

not be more than the lesser of $500,000 or 1 per centum of the net worth of the debt collector; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of award in any class action under subsection (a)(2)(B), the court shall consider, among other relevant factors, the frequency and persistence of failures of compliance by the debt collector, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's failure of compliance was intentional.

"(c) A debt collector may not be held liable in any action brought under this title if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the violation occurs.

"(e) No provision of this section or section 812 imposing any liability shall apply to any act done or omitted in good faith in conformity with any interpretation thereof by the Commission, notwithstanding that after such act or omission has occurred, such interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(f) Any action which may be brought under this section against any debt collector may also be brought against the creditor who assigned, sold, or otherwise transferred to the debt collector his right to collect the debt out of which the action arose, if, at the time of such assignment, sale or transfer the creditor has knowledge or, from his course of dealing with the debt collector, notice of substantial complaints by consumers of the debt collector's failure to comply with any portion of this title. Provided that:

"(1) Any aggrieved person shall be entitled to but one recovery of the damages permitted under this section; and

"(2) The creditor and the debt collector shall have rights of contribution with respect to each other.

"§ 812. Criminal liability

"Whoever willfully and knowingly—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 813. Administrative enforcement

"(a) Compliance with this title shall be enforced by the Commission. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed a violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title.

"(b) Compliance with the requirements of this title may also be enforced by any state officials having such functions and powers under state law.

"§ 814. Reports to Congress by the Commission and Attorney General

"Not later than twelve calendar months after the effective date of this title and at one year intervals thereafter, the Commission and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Commission and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken by the Commission under section 813 of this title.

"§ 815. Relation to State laws

"This title does not annul, after, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collecting practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

"§ 816. Exemption for State regulation

"The Commission shall by regulation exempt from the requirements of this title any class of debt collection practices within any State if the Commission determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 817. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment, and section 808 shall apply only with respect to debts for which the initial attempt to collect occurs after such effetive date.".

By Mr. THURMOND:

S. 3839. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery. Referred to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, recently one of my constituents contacted me concerning his mother's request to be buried next to his father in a military cemetery. This was an unusual situation. His father had died in 1940 and was buried in a church cemetery. Since that time, Fort Jackson annexed this property and made it a post cemetery. Since this cemetery is now a military cemetery, this lady could not be buried next to her husband because she did not meet the requirements spelled out in the provisions of an act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes," (62 Stat. 234; 24 U.S.C. 281). A private relief bill had to be passed to allow this lady to be buried next to her husband.

I am sure there are other individuals in this same situation at Fort Jackson and other areas across the country. I do not believe a private relief bill should have to be passed in each such instance. For this reason, I am introducing this bill which would allow any surviving spouse of a person buried in a post cemetery or the post section of a national cemetery located in the United States or any Territory of the United States to be buried in the gravesite or the adjoining gravesite of such person.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 3841. A bill for the relief of Alaska Methodist University in Anchorage, Alaska. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. STEVENS. Mr. President, I am today introducing legislation to give the Alaska Methodist University in Anchorage, Alaska, greater flexibility to function as an independent university. This bill would grant AMU forgiveness on indebtedness to the Department of Housing and Urban Development for service payments on the dormitories and the student union building.

Alaska Methodist University was founded in 1959. It is a small accredited university emphasizing studies in the liberal arts, business administration, and nursing. AMU is located on 505 acres and consists of eight buildings, including three dormitories that house about 165 students and a student union building. AMU is the only 4-year independent university located in the entire State of Alaska.

Alaska Methodist University is presently undergoing a complete reorganization which is quite unique in higher education in America. Faced with extreme financial difficulties, AMU has zealously begun to reorganize and plan for a new future as an effective postsecondary institution.

Presently AMU is about 2 years delinquent in meeting HUD payments on the dormitories and the student center building. If AMU is to survive as a viable, and most of all, independent university, it must be allowed the flexibility to plan with a clean slate. If not, its future will be highly doubtful. In fact without this flexibility, the university would almost assuredly be forced to close its doors as an independent institution.

Mr. President, I would like to emphasize that AMU has the ability to continue functioning as an educational entity. Administratively, AMU is in the process of reorganizing its fiscal management affairs. Furthermore, there is the desire among Alaskans to see the continued operation of the only independent university in the State's largest city and population center. AMU is close to the lives of many Anchorageites and public opinion toward the university is very supportive.

No other State has as many unmet education needs as does Alaska. We have the opportunity to see that these needs are developed. This bill that I am introducing today will be a great step toward helping to meet the higher education needs for the present and the future.

I ask unanimous consent that my bill be printed in the RECORD.

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

S. 3841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall cancel the unpaid principal amount, together with any accrued interest, of the

obligation of Alaska Methodist University in Anchorage, Alaska, to the United States insofar as such obligation applies to the construction or purchase of the student union building and dormitories of such University.

By Mr. MATHIAS:

S. 3842. A bill to amend title 38 of the United States Code relating to condominimum home loans. Referred to the Committee on Veterans' Affairs.

Mr. MATHIAS. Mr. President, I am introducing today a bill to permit the Veterans' Administration to guarantee home mortgages for the purchase of homes converted to condominiums.

Presently the VA will only guarantee home loans for new condominiums and not condominium conversions. This is an inequitable situation which excludes from VA guarantee many substantial homes and apartment buildings which have been converted from rental to the condominium form of ownership.

The apparent reason for excluding condominium conversions from VA loan eligibility was an interpretation by VA that it was not the congressional intent to permit VA loans for condominium conversions. This bill serves to correct this mistaken impression.

Mr. President, I need not reiterate the numerous statistics on our inflationary housing market and the fact that three-fourths of our Nation's families cannot afford the median-priced new home today. The condominium form of homeownership offers one way for some of those people to participate in homeownership because frequently the financing terms and sales price are less expensive than the terms for a conventional fee simple house.

As of March 1975, there were 125,000 condominium conversions in the country, most of them concentrated in the Boston-Washington corridors. This is less than 10 percent of the total housing stock nationwide.

Nevertheless, Mr. President, they are a housing resource which should be made available with all of the financing and ownership options available which are also available for the purchase of a conventional home.

Many of our veterans have not been able to afford a home and are presently renters. This bill would provide them with the one homeownership option which could make owning a home within their financial means.

ADDITIONAL COSPONSORS

S. 1634

At the request of Mr. ROBERT C. BYRD (for Mr. MONDALE), the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1634, to amend the Immigration and Nationality Act.

S. 3759

At the request of Mr. Moss, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3759, the Earth Resources Information Satellite Systems Act of 1976.

AMENDMENT NO. 2302

At the request of Mr. METCALF, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of amendment No. 2302, intended to be proposed to the bill (S. 2849), the Investment Advisers Amendments Act.

SENATE RESOLUTION 559—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF H.R. 10760

(Referred to the Committee on the Budget.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 559

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 10760, the "Black Lung Benefits Reform Act of 1976." Such waiver is necessary because the bill includes two provisionsns authorizing appropriations for fiscal year 1977. In section 6(a) of the bill, proposed section 424(d)(1) of the Federal Coal Mine Health and Safety Act authorizes the appropriation of "such sums as may be necessary to provide the funds with advance amounts which the Secretary estimates are necessary for the payment of benefits pursuant to section 424 (a)(2) and expenses of operation and administration of the fund under this section." The "fund" is the Black Lung Disability Fund which, after repayable advaces are made by appropriations, will be supported entirely by assessments on coal mine operators.

Section 7(f) of the bill continues for reach fiscal year a $10 million authorization of appropriations for black lung clinical facilities under section 427(c) of the Federal Coal Mine Health and Safety Act. Under current law appropriations have been authorized for three fiscal years—1973, 1974 and 1975.

The Black Lung Benefits Program (title IV of the Federal Coal Mine Health and Safety Act) is an entitlement program. Both the House-passed bill (H.R. 10760) and the Senate measure (S. 3183), propose to continue such program with modifications, including the establishment of a trust fund to insure the transfer of residual liability for the non-Federal part of the program (part C) from the Department of Labor to the coal mining industry. Although little new Federal financial responsibility remains in the bill reported by the Committee on Labor and Public Welfare, entitlements to benefits under the trust fund remain with respect to claims allowed under part C.

Therefore, H.R. 10760 as reported by the Committee on Labor and Public Welfare contains both authorizations of appropriations for new budget authority for fiscal year 1977, under section 401(c)(2)(C) of the Congressional Budget Act of 1974.

Since section 303(a) of the Congressional Budget Act of 1974 provides that it is not in order for either House to consider any measure providing new spending authority until adoption of the First Concurrent Resolution; since H.R. 10760 is in primary purpose a bill providing new spending authority; and since H.R. 10760 as reported by the Committee on Labor and Public Welfare is collaterally a bill providing authorization for new budget authority, a waiver of section 402(a) of the Congressional Budget Act of 1974 is required.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 10760 as reported by the Committee on Labor and Public Welfare.

Mr. RANDOLPH. Mr. President, I submit a resolution waiving certain provisions of the Congressional Budget Act of 1974 with respect to authorizations of appropriations contained in H.R. 10760, the Black Lung Benefits Reform Act of 1976, as reported by the Committee on Labor and Public Welfare, and I understand that the resolution will be referred to the Committee on the Budget.

I ask unanimous consent that a letter from the chairman of the Committee on the Budget (Mr. MUSKIE), dated May 25, 1976, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., May 25, 1976.

Hon. JENNINGS RANDOLPH,
Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR JENNINGS: This letter is in response to your inquiry concerning the procedural sections of the Budget Act which might have an impact upon the consideration of the Black Lung legislation on which you and the subcommittee have been working.

Both H.R. 10760, as passed by the House, and S. 3183, as introduced, provide for new entitlements in both the Part B and Part C sections of the Black Lung Benefits program.

Section 401(b)(1) of the Budget Act provides that it shall not be in order in the Senate to consider any bill or resolution creating new entitlements which are to become effective "before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported." Therefore, if the Black Lung reform legislation is to avoid being subject to a point of order under this section of the Budget Act, these new entitlements cannot become effective before October 1, 1976.

In addition, section 401(b)(2) of the Budget Act provides that the Black Lung legislation may have to be referred to the Senate Appropriations Committee if the estimated new budget authority for Black Lung benefits exceeds the level of new budget authority allocated to the Labor Subcommittee by the Committee on Labor and Public Welfare under section 302(b) of the Budget Act. This section provides that as soon as practicable after a concurrent resolution on the budget is agreed to, each committee of the Senate to which an allocation of spending authority was made in the Joint Explanatory Statement accompanying the Conference Report shall "subdivide such allocation among its subcommittees or among programs over which it has jurisdiction."

The Joint Explanatory Statement accompanying S. Con. Res. 109, the First Concurrent Resolution on the Budget for Fiscal Year 1977, allocated a total of $3.2 billion of new budget authority to the Senate Labor and Public Welfare Committee for entitlement programs. The Black Lung legislation will therefore have to compete with other existing and new entitlement programs within the jurisdiction of the Labor and Public Welfare Committee for the limited amount of new budget authority allocated in the First Concurrent Resolution on the Budget. If the projected new budget authority for the Black Lung benefits exceeds the remaining amount of budget authority allocated to the program pursuant to Section 302(b) by the Labor and Public Welfare Committee, then the Black Lung legislation would have to be referred to the Appropriations Committee for a period up to 15 days. The Appropriations Committee would have jurisdiction under Section 401(b)(3) of the Budget Act to report the legislation with an amendment limiting the total amount of new spending authority provided in the legislation.

Finally, both H.R. 10760 and S. 3183 contain some provisions authorizing the enactment of new budget authority for fiscal 1977. Section 402(a) of the Budget Act provides that it shall not be in order in the Senate to

consider any bill or resolution authorizing the enactment of new budget authority for a coming fiscal year unless the bill or resolution is reported on or before May 15 preceding the beginning of such fiscal year.

A waiver procedure in the Senate is available under Section 402(c) of the Budget Act in which the committee reporting a bill after the May 15 deadline may also report a resolution to the Senate waiving Section 402(a) of the Budget Act with respect to the consideration of such bill or resolution and stating the reasons why the waiver is necessary. This resolution is then referred to the Senate Budget Committee which has 10 days in which to report the resolution, accompanied by the Budget Committee's recommendations and reasons for such recommendations.

I hope that this discussion clarifies the applicability of the Congressional Budget Act to the Black Lung Benefits Reform Act of 1975.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.

SENATE RESOLUTION 560—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 14360

(Referred to the Committee on the Budget.)

Mr. MORGAN, from the Committee on Public Works, reported the following resolution:

S. RES. 560

Resolved, That the prohibition of section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing the enactment of new budget authority for a fiscal year if such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the bill to amend the John F. Kennedy Center Act (H.R. 14360) reported by the Committee on Public Works on September 17, 1976. The waiver is necessary for the Senate to complete action on legislation which provides an authorization of $3 million to the Secretary of Interior for repairs to the roof and terrace areas of the Kennedy Center.

The authorization of funds in H.R. 14360 was not taken into consideration in the March 15 report to the Senate Budget Committee by the Public Works Committee because such funding was not anticipated at that time. This reported bill provides for emergency funding for repairs to the roof and other areas at the Kennedy Center which need repair to prevent substantial damage to the interior of the building.

SENATE RESOLUTION 561—SUBMISSION OF A RESOLUTION RELATING TO THE MURDERS OF ORLANDO LETELIER AND RONNI KARPEN MOFFITT

(Referred to the Committee on the Judiciary.)

Mr. KENNEDY (for himself, Mr. ABOUREZK, and Mr. HUMPHREY) submitted the following resolution:

S. RES. 561

Whereas, the United States has always opened its doors to refugees from countries suffering from tyranny; and

Whereas, acts of violence and terrorism are the ultimate attack against democracy and against legitimate democratic expression; and

Whereas, on September 21, 1976, Orlando Letelier, former Foreign Minister, Defense Minister, and Ambassador to the United States of the elected government of Chile, and Ronni Karpen Moffitt, administrative assistant at the Institute for Policy Studies in Washington, D.C., were brutally murdered and Michael Moffitt of the Institute was injured by a bomb placed by terrorists, Now, therefore be it

Resolved, That the Senate of the United States condemns the brutal and senseless murders of Orlando Letelier and Ronni Karpen Moffitt and the serious injury of Michael Moffitt, and urges a complete and thorough investigation by Federal authorities of the circumstances surrounding the bombing.

AMENDMENTS SUBMITTED FOR PRINTING

VETERANS' EDUCATION AND EMPLOYMENT ASSISTANCE ACT—S. 969

AMENDMENT NO. 2333

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

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 969) to amend chapter 34 of title 38, United States Code to extend the basic educational assistance eligibility for veterans under chapter 34 and for certain dependents under chapter 34 from 36 to 45 months.

AMENDMENT NO. 2334

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

Mr. DURKIN (for himself, Mr. CLARK, Mr. EASTLAND, Mr. MATHIAS, Mr. HUGH SCOTT, and Mr. ALLEN) submitted an amendment intended to be proposed by them jointly to the bill (S. 969), supra.

AMENDMENT NO. 2335

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

Mr. DURKIN (for himself, Mr. TAFT, Mr. MATHIAS, and Mr. HUGH SCOTT) submitted an amendment intended to be proposed by them jointly to the bill (S. 969), supra.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976—H.R. 10210

AMENDMENT NO. 2336

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

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 10210) to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax, and for other purposes.

OMNIBUS RIVERS AND HARBORS ACT—S. 3823

AMENDMENTS NOS. 2337 THROUGH 2345

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

Mr. NELSON. Mr. President, the Senate Public Works Committee has reported S. 3823 to the Senate. This omnibus rivers and harbors bill contains in section 4 authorization for replacement of Locks and Dam No. 26 on the Mississippi River near Alton, Ill.

I am strongly opposed to section 4 of this bill for five major reasons.

First, every fact involving the engineering, economic, and environmental affects of this replacement project is in dispute. A clear record has not been developed.

Second, there is no need to authorize now. While the dam is old and in need of either repair or replacement, according to the Corps own engineering reports, the structure is stable and is in no imminent danger of failure.

Third, four expert Federal agencies—the Environmental Protection Agency, EPA; the President's Council on Environmental Quality, CEQ; the Department of the Interior, DOI; and the Department of Transportation, DOT—have all recommended that Congress defer action on this replacement until more information is available. CEQ has recommended that action on the proposed replacement be deferred until the pending NEPA litigation has been concluded and the adequacy of the impact statement has been determined. These expert Federal agencies have been joined by the State of Wisconsin, the Illinois Department of Transportation, the Minnesota Department of Natural Resources, and the Minnesota Pollution Control Agency in asking that no action be taken at this time.

Fourth, the General Accounting Office's evaluation of engineering alternatives requested by the Water Resources Subcommittee is not available. It is scheduled for completion in approximately 30 days.

Fifth, because S. 3823 is not assumed by the second concurrent budget resolution, the authorization will not become effective until October 1, 1977, a full year from now. Under present law, the Corps will be prohibited from spending any money on this project until then. Given the significance of the issues in dispute, it makes no sense to authorize a project that cannot be funded for a year.

Section 4 should be stricken from the bill and the question of Locks and Dam No. 26 reconsidered during the first session of the 95th Congress. I submit an amendment (No. 2337) together with the Senator from Colorado (Mr. GARY HART) to strike section 4 of S. 3823.

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

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

AMENDMENT No. 2337

On page 13, line 8,

(a) Strike everything after "Sec. 4(a)" through "section." on page 19, line 24;

(b) Renumber subsequent sections accordingly.

AMENDMENT No. 2338

On page 13, line 15,

(a) After the words "March 15, 1976," add the following: "provided that the lower lock sill elevation of said lock shall be 12 feet (383.0) below minimum tailwater elevation (395.0) and that the upper sill elevation of said lock shall be 12 feet (402.0) below minimum pool drawdown, elevation 414.0,"

AMENDMENT No. 2339

On page 15, line 7,

(a) After "July 1, 1980," add a period, "." and strike "and" on line 8 through "State." on line 9;

(b) Insert after "1980." the following:

"Public participation in the development, revision, and enforcement of said plan established by the Council under Section 4(d)(2) of this Act shall be provided for, encouraged, and assisted by the Council. The Council shall develop and publish final regulations in the Federal Register within 150 days of the date of enactment of this Act specifying minimum guidelines for public participation in such processes."

(c) On page 15, line 9 after "all" insert "public" and strike "presented at such hearings," and insert in lieu thereof "and".

AMENDMENT No. 2340

On page 16, line 13,

(a) Strike everything after "(A)" through "Illinois;" on page 17, line 4 and insert in lieu thereof "studies to determine (1) the long and short-term systemic fish, wildlife, water quality, wilderness, and public recreational impacts of the project authorized by Section 4(a) of this Act, operation and maintenance on the Mississippi River system, (2) the means and measures that should be adopted to prevent or minimize loss of or damage to fish, wildlife, recreational, or wilderness values and provide for mitigation and enhancement of such resources, and (3) a specific analysis of the immediate and systemic environmental effects of any new navigation-related construction, specifically including any second look at Alton, Illinois;"

AMENDMENT No. 2341

On page 16, line 23,

Strike the entire subsection through "Illinois;" on page 17, line 4, and insert in lieu thereof the following:

"(B) The Council shall undertake a study to determine (1) the relationship of any expansion of navigational traffic on the Mississippi River system to national transportation policy, (2) the direct and indirect effects of any expansion of navigational traffic on the Mississippi River system on the nation's railroads and on shippers dependent upon rail service, and (3) the transportation costs and benefits to the Nation to be derived from any expansion of navigational traffic on the Mississippi River system. The Council is directed to immediately initiate a specific evaluation of the systemic direct and indirect economic effects and need for a second lock at Alton, Illinois;"

AMENDMENT No. 2342

On page 17, line 5,

Strike everything after "(C)" through "activities," on line 10 and insert in lieu thereof "studies and demonstration programs including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil, studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities."

AMENDMENT No. 2343

On page 17, line 16,

(a) Strike "(E)" and insert in lieu thereof "(F)".

(b) On page 17, line 16, add the following new subsection:

"(E) The Council shall immediately initiate a wilderness feasibility study to determine whether any of the federally held lands of the Upper Mississippi Fish and Wildlife Refuge meet the criteria established by the 1960 National Wilderness Preservation System Act (16 U.S.C. 1131). The development and implementation of said study shall be performed in cooperation with state and local government and members of the public. Within six months of date of enactment of this Act the Council shall submit to the Congress the results of said study. The lands identified by the Council as meeting the criteria for wilderness shall be managed to protect these qualities unless directed otherwise by a specific Act of Congress."

AMENDMENT No. 2344

On page 19, line 5,

(a) After "The", strike "secretary of the Army" and insert in lieu thereof "Council";

(b) On page 19, line 10, after "center of such structure," insert "and review and comment on the technical feasibility of rehabilitation and the General Accounting Office engineering study of the Illinois Department of Transportation's, Western Railroad Association's, and Corps of Engineers' rehabilitation alternatives that will be submitted to the Senate Water Resources Subcommittee on October 31, 1976";

(c) On page 19, line 10, after "recommend to the" insert "Congress and the";

(d) On page 19, line 11, after "interest of" strike "expeditions improvements to the waterway and" on line 12;

(e) On page 19, line 13, after "report to the" insert "Congress and the" on line 14;

(f) On page 19, line 15, after "against such" strike "alternative," and insert in lieu thereof "alternatives,";

(g) On page 19, line 21, strike everything from "If" through "section" on line 24 and insert in lieu thereof "Following the submission of such a report construction shall not proceed on any facility authorized by subsection (a) of this Act."

AMENDMENT No. 2345

On page 22, line 8,

(a) Strike "50" and insert in lieu thereof "100";

(b) On page 22, line 12, strike "50" and insert in lieu thereof "100";

(c) On page 22, line 18, strike "10" and insert in lieu thereof "20";

(d) On page 22, line 20, strike "10" and insert in lieu thereof "20";

(e) On page 22, line 21, strike "50" and insert in lieu thereof "100";

(f) On page 23, line 1, strike "10" and insert in lieu thereof "20";

(g) On page 23, line 3, strike "10" and insert in lieu thereof "20";

(h) On page 23, line 4, strike "50" and insert in lieu thereof "100".

Mr. NELSON. Mr. President, amendment No. 2338 speaks to the question of the 12-foot navigation channel.

Everyone agrees on this point. No one publicly, except perhaps the Corps, wants to establish a 12-foot navigation channel on the upper Mississippi. However, there is disagreement as to how adequate safeguards may be enacted to prohibit the establishment of the 12-foot navigation channel.

The Corps' record on similar issues on the Ohio is not encouraging. Therefore, it seems to me the only way to prohibit the 12-foot channel is to make it physically impossible for a 12-foot barge to navigate Locks and Dam No. 26.

This amendment mandates that the proposed replacement authorized in section 4(a) be built with 12-foot lock sills. Documents on file with the District Court for the District of Columbia show that 3 feet of clearance is needed from the bottom of a barge in a lock to allow for proper navigation. A 12-foot sill will allow a 9-foot barge to traverse Locks and Dam No. 26.

Mr. President, amendment No. 2339 speaks to the role the public shall play in developing the master plan for the Mississippi River system.

This amendment borrows language from section 101(e) of the Federal Water Pollution Control Act Amendments of 1972—Public Law 92-500—and establishes a strong mandate for public participation in all phases of the master plan process. It requires the Council to publish in the Federal Register specific guidelines for participation.

Mr. President, amendment No. 2340 speaks to the studies that the Council shall perform in developing the master plan.

This language is revised from S. 3425 and provides for strong systemic environmental impact studies of any increase in navigation on the Mississippi River system. It calls for a specific study of the systemic environmental effects of any second lock at Alton.

Mr. President, amendment No. 2341 speaks to the economic studies that the Council will perform in developing the master plan.

Again, this language is revised from S. 3425 and is more specific in requirements for intermodal economic studies that will be performed on a systemic basis prior to authorizing any new expansion of navigation on the Mississippi River system. It specifically provides for a systemic analysis of the need and impact of any second lock at Alton.

Mr. President, amendment No. 2342 speaks to the demonstration program study section of the master plan.

Rather than emphasizing acquisition of new equipment to solve the dredge spoil program, this language emphasizes environmentally compatible demonstration programs to develop secondary uses for dredge spoil material.

The corps, on the upper Mississippi, is under court order because of their dredge spoil practices. They are doing less dredging now than ever before. The answer is not the acquisition of new equipment—that would only perpetuate the mistakes of the past. The answer is a change of values and the development of environmentally compatible dredge spoil disposal systems.

Mr. President, amendment No. 2343 speaks to the study section of the master plan and adds a new subsection dealing with wilderness.

This language directs the Council to immediately initiate a wilderness feasibility study to determine whether any of the upper Mississippi fish and wildlife lands comply with the criteria of the 1960 National Wilderness Preservation Systems Act. A report shall be submitted to the Congress within 6 months of the beginning of the study and the lands identified by the Council as meeting the criteria for wilderness shall be managed to protect these qualities unless directed otherwise by a specific act of Congress.

The question of wilderness on the upper Mississippi has been a chronic point of dispute between the Interior Department and the Corps. There is no question that the Corps' operation and maintenance procedures are destroying the values of this unique resource. Therefore, it seems only logical to have the master plan that will outline Federal, State, and local objectives speak directly to the question of wilderness.

Mr. President, amendment No. 2344 revises the 120-day procedure established by S. 3823 for reviewing rehabilitation alternatives to the proposed re-

placement authorized by section (4) a of the act.

This language removes the Secretary of the Army and the Corps from the selection of the Engineering Board. It places that responsibility with the Upper Mississippi River Council, a more impartial group. Furthermore, it mandates that the Engineering Board review the General Accounting Office's engineering evaluation requested by the Water Resources Subcommittee, as well as the recommendation of the Illinois Department of Transportation, and submit its report directly to the Congress.

Finally, if the Board recommends reconsideration of alternatives other than the replacement of Locks and Dam No. 26 this language mandates that construction of the replacement shall not proceed until the Congress makes a firm decision one way or the other.

Mr. President, amendment No. 2345 speaks to section 5 of S. 3823, the user charge provision.

This amendment raises the maximum contribution for operation and maintenance activities, as well as capital requirements, from 50 percent to 100 percent. It maintains the sequential phase-in of payments.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1976—S. 1302

AMENDMENT NO. 2346

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 1302) to promote safety and health in the mining industry, and for other purposes.

CIVIL RIGHTS ATTORNEYS' FEES AWARDS ACT—S. 2278

AMENDMENTS NOS. 2348 AND 2349

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

Mr. ALLEN submitted two amendments intended to be proposed by him to amendment No. 2347, proposed to the bill (S. 2278) entitled "The Civil Rights Attorneys' Fees Awards Act of 1975".

NOTICES OF HEARINGS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee on Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

September 21.—Joint hearing, Commerce and Interior, 10 a.m., room 3110, hearing, oversight hearing on West Coast crude oil surplus.

September 22.—Environment and Land Resources Subcommittee, 9 a.m., room 3110, closed business meeting. To consider report on Forest Service preparation of East River Unit Plan.

September 22.—Full committee and national fuels and energy policy study. 11 a.m., room 3110, hearing S. 3486, to amend the Emergency Petroleum Allocation Act of 1973.

September 23.—Full committee. 10 a.m., room 3110, business meeting. Pending calendar business.

September 24.—Environment and Land Resources Subcommittee. 10 a.m., room 3110, hearing S. 3613, S. 2708, S. 3788, Wild and Scenic River system legislation.

September 28.—Energy Research and Water Resources Subcommittee. 10 a.m., room 3110, hearing, oversight hearing on ERDA long-range plan.

AMENDED NOTICE OF HEARING

SUBCOMMITTEE ON LABOR

Mr. DURKIN. Mr. President, in the CONGRESSIONAL RECORD of September 17, 1976, I announced, on behalf of the Committee on Labor and Public Welfare, oversight hearings to be held by the Subcommittee on Labor on the Occupational Safety and Health Act.

I would like to amend the time and place of the hearings as follows: The hearings are now scheduled to be held in the Jacksonville City Council Chambers, 200 East Bay Street, Jacksonville, Fla. The hours for the hearing are from 9 a.m. to 1 p.m. The date remains Sepetmber 27, 1976.

Persons wishing to testify or wishing additional information should contact Peggy Taylor of the Labor Subcommittee staff room G–237, Dirksen Senate Office Building, 224–3674.

ADDITIONAL STATEMENTS

SIGNIFICANCE OF SWEDEN'S ELECTIONS: LET'S END ONE-PARTY RULE IN AMERICA

Mr. FANNIN. Mr. President, on Sunday, September 19, 1976, an historic election was held in Sweden. Results of that election are significant, because, for the first time in 44 years, the Social Democratic Party has been removed from power.

According to the latest election returns, a coalition of three moderate-to-conservative political parties will dominate the new Swedish parliament. The ruling coalition, with 179 seats, will consist of members of the center party, the Conservatives and the Liberals. This coalition will have a nine-vote margin over the Social Democrats and their allies, the Communists. Since the last Swedish elections in 1973, the moderate-conservative coalition, which garnered 50.7 percent of the total vote on Sunday, gained 1.8 percent overall while the Socialist bloc received only 47.7 percent, or down 0.2 percent overall. It should further be noted that the parties making the most significant gains, four seats each, were the Conservatives and the Liberals, both of which represent a free-enterprise, less-government approach to domestic problems.

Mr. President, it is noteworthy that the Swedish voters, most of whom had never known anything but Socialist rule, decided it was "time for a change" and voted out the Social Democrats and their Communist allies and with them, Prime Minister Olof Palme, who is, by any standards, a stridently anti-American politician. What is even more significant, I think, is that the Swedish people finally decided that they had had enough of government regulation and control over their lives and property. In short, the Swedes have opted for a freer market economy.

According to reliable press accounts, one of the principal factors in the Socialist defeat was the growing irritation among the people with the ever-expanding bureaucracy that administers the Swedish welfare state. Stories of high-handedness on the part of arrogant petty bureaucrats are not unusual. It was shocking to read that a highly respected film director like Ingmar Bergman should have gone into self-imposed exile in another country because of harassment by tax authorities who badgered him at all hours and places, demanding further explanation concerning his taxes.

The welfare state has become so bloated in Sweden that an average worker must pay 60 percent rate on the last thousand crowns he earns. The heavy burden of taxes needed to support such a system has created wide disenchantment with the government. At the same time the Swedish economy has stagnated, as workers and entrepreneurs suffocate under mounds of official paperwork, Government redtape and regulations. Mr. President, it is fervently hoped that this dramatic shift toward the right will bring welcome changes to Sweden's internal economic policies and a new look in its policy toward the United States and Western Europe.

Mr. President, the issues that faced the Swedish people in their national elections—big government, big bureaucracy, excessive government spending, unchecked trade union power, oppressive taxation, and a sluggish economy—are very similar to the issues that will be facing the American electorate in November. There is still another important factor: Apparently many Swedish voters took to heart the argument that the unbroken rule of one party since 1932 threatened Swedish democracy. In our own country the Democrats have controlled both Houses of Congress during all but four out of the past 44 years.

Mr. President, the American people are confronting the same kind of important questions of policy that faced the Swedish people when they went to the polls. The Nation's economic, political, and social problems that have been caused principally by one-party rule in the Congress. Whether we consider the Democrats in the U.S. Congress or the Social Democrats in the Swedish Riksdag, it is clear that 44 years is long enough for any political party to control the national legislature. I hope that the taxpayers across America will, like the electorate in Sweden, vote for a change in November.

NUCLEAR/SOLAR REPRINTS AVAILABLE FROM SENATOR GRAVEL

Mr. GRAVEL. Mr. President, since 1970 I have been making available information on nuclear and solar power. I believe this information has helped and will help concerned citizens and Members of Congress understand fully why we must get rid of nuclear power and start serious efforts in solar energy. I welcome requests for reprints from anyone.

Mr. President, I ask unanimous consent that a list of the available reprints be printed in the RECORD.

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

NUCLEAR/SOLAR REPRINTS AVAILABLE FROM SENATOR MIKE GRAVEL

NL, Feb. 76: Proposed energy budget (FY 77), Senators' votes on Price-Anderson Act.

NL, Nov. 75: Alert on the Price-Anderson nuclear insurance renewal.

NL, Aug. 75: Voting records for Senators on FY 1976 ERDA budget amendments to decrease breeder reactor funding, increase solar funding, and restrict new plutonium production.

NL, Mar. 75: General Nuclear News.

NL, Oct. 74: Costly nukes, warning from nuclear insider, insurance, nuclear politics.

NL, Sept. 74: Solar "breeder" concept, budget, need for solar construction now.

NL, Apr. 74: Rasmussen defects, British rejection of nukes, insurance, 850 "abnormal events", national security & nukes, quality control, moratorium bill.

NL, Dec. 73: Solar news: Farming for fuel, competitive solar power within 10 years, energy budgets.

NL, Nov. 73: Windpower, budgets (esp. nuclear breeder); boron fission.

NL, Oct. 73: (2): Nukes too dangerous for Philadelphia, nuclear "surprises", national security & nukes, cost-benefit analyst endorses nuclear phase-out.

NL, Oct. 73: (1): Nuclear warning from 100 Pugwash scientists, Nader.

NL, Sep. 73: National security & nukes, consequences of nuke accidents, warning from PA Insurance Commissioner Denenberg, proposal for when experts disagree.

NL, Jul. 73: (2): Unions and newspaper endorse moratorium, AEC public "information" program.

NI, Jul. 73: (1): Moratorium lawsuit by Nader & Friends of the Earth, summary of ECCS problem, electric power from trash in St. Louis.

NL, May 73: (3): Do-it-yourself methane-makers and wind generators, budgets.

NL, May 73: (2): Solar energy vs. land area, atom-bombing for gas, solar home in NM.

NL, May 73: (1): Prof. Heronemus on windpower vs. nukes; Sweden anti-nuclear action, human error and nuclear "safety".

135: Nuclear power: The Unviable Option—Book review.

134: Nuclear Power: Too Expensive—articles by Robert Gillette and Egan O'Connor on economic advantages of not building nukes—easily understandable by laymen.

133: Miller Memo—NRC Consultant urges moratorium; calls Rasmussen Report "Disgrace."

132: Jimmy Carter's Nuclear Position.

131: Wall St. Journal Confirms Uranium Shortage and Disincentives for Solar Energy by Nicholas Von Hoffman.

130: Progress on the Nation-wide Petition-drive—includes number of anti-nuclear signatures counted according to Congressional District.

129: Nuclear Power Quotes—14 brief quotes on nuclear power.

128: Plutonium and Civil Liberties by Sen. Mike Gravel.

127: Radiation Doses & Effects in a Nuclear Economy: Myths vs. Realities, by Dr. John W. Gofman—Case for rejecting nukes due to low-dose emissions, leaks.

126: Browns Ferry Reactor Fire—From the Reader's Digest.

125: The Nuclear Fuel Scandal by Egan O'Connor—Explores probability that more nukes are being built than can be fueled economically.

124: Alice In Blunderland by Dr. John W. Gofman—Refutes many claims of nuclear advocates concerning radiation hazards, energy efficiency, plutonium, etc.

123: Fish/Gravel Testimony 2/26/76—Rep. Hamilton Fish, Jr. (NY) and Sen. Gravel urge moratorium; includes chronology of Browns Ferry fire and particular problems of sabotage and national security.

122: Nuclear Weapons Sufficiency Act—Sen. Gravel's bill to stop more production of plutonium for weapons without affecting national security by using Pu from outdated weapons.

121: Solar Energy Source List—Over 30 sources of solar information.

120: GE Engineers—Testimony before the Joint Committee on Atomic Energy by 3 resigned General Electric engineers charging hair dryers and toasters are more thoroughly tested than nuclear plant controls.

119: National Council of Churces Statement—Opposes plutonium economy.

118: Price-Anderson Changes Needed.

117: Costly Nuclear Power—New York Times article on rising nuclear costs.

115: Solar Promise—Including FEA Task Force report, Ocean Thermal testimony, and OR State Planning Report advocating solar power.

114: Plutonium—2 technical papers by Dr. John Gofman on the extreme toxicity of plutonium, including estimate that one million people may be committed to fatal lung cancer in the N. hemisphere due to weapons testing, and that permissable doses of Pu could cause an extra 200,000 lung cancer fatalities annually in the U.S.

113: Scientists Urge Slow-Down—Petition of 2,300 scientists urging "drastic reduction" for nukes.

112: Nuclear Power: The Moral Issue—Address by Egan O'Connor to religious leaders explaining the unique and urgent need to stop nuclear power.

111: Price Anderson Questions and Answers—By Sen. Mike Gravel.

110: Nuclear Power Reappraisal Act—Senate version of 5 year nuclear moratorium bill.

109: The Anti-Nuclear Movement—List of moratorium supporters and Sen. Gravel's analysis of the movement.

108: Bypassing the Breeder—The case against the breeder by Nat. Resources Defense Council.

107: Proliferation—Sens. Cranston & Gravel on worldwide proliferation of nuclear weapons due to nuclear power plants.

105: Nuclear Economics: More is Less—includes report by Dr. Peter Chapman suggesting that ambitious nuclear construction programs may consume more energy than they produce.

106: California Initiative—Text and news articles on 1976 CA Initiative.

103: Nuclear Energy Reappraisal Act of 1975—House version of 5 year moratorium bill introduced by NY Rep. Hamilton Fish Jr. and 40 colleagues, with Rep. Fish's introduction justifying the bill.

102: 1972 Testimony of Dr. Ralph Lapp—In 1974 a nuclear advocate, he had some very deep concerns in 1972 on nuke safety.

101: AIF Memo—Atomic Industrial Forum plans to push nukes, including doubling their budget, ghost-writing "news" stories, and lobbying.

99: Nuclear power and terrorism.

98: New electric rate plans & conservation vs. nukes, cancellations.

97: GAO evaluates usefulness of reliability predictions (vs. actual performance) in space and military systems.

96: Radioactive Waste—A Problem Forever, including national security.

95: Nuclear Insurance—Discussion of Price Anderson Act and amendments.

94: Natural Resources Defense Council report on plutonium fuel cycle, 10/74.

93: Public opinion poll on nuclear power.

92: Low-dose nuclear pollution (PA monitoring scandal, "permissable" dose-permissable murder).

91: Fiasco in nuclear fuel reprocessing.

90: Defects in the Rasmussen Report—testimony of engineer William Bryan, 2/74.

90A: Catastrophic Nuclear Accidents, by the Union of Concerned Scientists, 10/73.

90B: Testimony by former Green Beret Dr. Bruce Welch on sabotage, Rasmussen, safety; "go-slow" editorial from the Dayton (OH) Daily News.

89: Britain Rejects American Nukes.

88: Introduction to solar energy.

87: Summary of 850 "abnormal events" at nukes by the Union of Concerned Scientists, 1 page flyer about the choice of solar vs. nuclear power.

86: Text of AEC's Sub-panel IX report, 10/73 admitting 100% of U.S. energy demand can be met by harvesting 5% of the solar energy falling on 4% of the U.S. (3 chapters on windpower, bioconversion, ocean-thermal).

85: Nuclear Insurance—Text of the Price-Anderson Act.

82: Human Error and Nuclear Power by Dr. John W. Gofman.

81: The Case for a Nuclear Power Moratorium, by Dr. John W. Gofman.

80: Text of S. 1217, the 1973-4 nuclear power phase-out Senate bill; a summary of solar alternatives that make nuclear power totally unnecessary.

78: Nuclear Power: A Hard Way to Boil Water—warnings from Dr. Hannes Alfven, Dr. Alvin Weinberg, Dr. Albert Crewe.

75: Protest to Federal Trade Commission about Westinghouse breeder ad, Dr. Gofman's calculation showing 1 nuke produces equivalent radioactivity as 1,000 Hiroshima bombs each year, "Energy and the Environment" by Dr. Alfven from the Bulletin of the Atomic Scientists.

74: Energy budgets, 1969-73—Starr and Gaucher on solar power.

73: Solar cells, solar shingles (photovoltaics).

72: Solar power via algae (biconversion).

71: "Just How Safe is a Nuclear Power Plant?" from Reader's Digest, 6/72.

70: "Nuclear Power and Environmental Law" by Dr. John W. Gofman, from Environmental Law Journal, winter 1971.

69: ECCS problem, warning from the American Journal of Public Health, 2/72.

68: Aerojet Nuclear Lab lists safety uncertainties, AEC censorship.

66: ECCS hearings 3/72, Dr. Weinberg urges realistic tests.

65: Dr. Henry Kendall's summary of Nuclear Operations (close-calls).

61: Nuclear Sabotage—arson at Con Ed's second nuke near NYC, 11/71.

60: Constructions deficiencies, ECCS, fallacy of nuke advocates' claims of "perfect safety record".

59: 4 stories on ECCS problem from Nucleonics Week, 2/17/72.

56: Adversary Science, AEC censorship.

55: Solar power—amendment to increase budget:

54: Solar power—windpower and ocean-thermal power.

53: AEC advises witnesses: "Never disagree with established policy."

52: Nuclear power vs. war on cancer: Technical paper by Dr. John Gofman and Dr. Arthur Tamplin explaining "permissible dose" of radiation and that it may mean 104,000 extra cancers per year.

51: Solar homes in Washington, D.C.. by Harry Thomason.

50: Solar energy: Low sulfur oil from trash and sewage.

47: Solar Energy: The Meinel Proposal for the Southwest desert.

46: Solar Energy: The Ford/Kane Proposal to get the nation's electric power from 2% of the U.S. Desert.

44: Energy Conservation.

43: Clean Power Coalition—a suggestion.

41: The need for adversary science—Article by Dr. John W. Gofman from the Bulletin of the Atomic Scientists, 9/71.

39: Solar Energy: Ocean-thermal power by J. H. Anderson.

33: Warning about catastrophic accidents by the Union of Concerned Scientists, 7/71.

30: Solar electricity: Amendment to in-

crease the budget 7/71; plus classic statement on nuclear power by Dr. Alfven.

001: 20 page introduction explaining hazards of nukes, and advantages of clean, safe solar alternatives.

Not numbered:

1 page introduction to nuclear power, available in bulk; includes nuke locations.

List from the AEC 3/74 of 31 kinds of information which must be in public document rooms near each nuke.

Barnwell, S. C. nuclear fuel reprocessing plant.

Testimony by Sen. Gravel on the Price-Anderson Act (5/74)—includes warning to nuclear advocates that so long as the nuclear industry fails to accept full responsibility for nuclear accidents citizens will demand a halt to their reckless activity.

7/8/71: Article on fuel cells; 2 articles on solar power.

4/29/71: The nuclear breeder and plutonium—with footnotes.

10/22/70: A 10% increase in genetic mutations from the "permissible dose" of radiation—a warning from Nobel laureate Dr. Joshua Lederberg.

5/13/70: Cancer and genetic hazards of the "permissible dose."

8/5/70: Nuclear fusion (vs. fission).

A STAUNCH ALLY

Mr. STEVENS. Mr. President, the Flying Tigers of the 14th Air Force Association—of which I am a proud member—recently staged a reunion in Taipei, Taiwan. The purpose of this meeting was to renew the association's undying friendship with our wartime comrades in Taiwan. Because of a prior commitment I could not join my fellow Flying Tigers in thanking the people of Taiwan for their loyalty and comradeship. I ask unanimous consent that the Association's adopted resolution be printed in the RECORD.

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

EXPRESSION OF APPRECIATION

The members of the 14th Air Force Association and their families who have been assembled from August 2 through August 9, 1976 in the city of Taipei, Republic of China, have observed at first hand all over Taiwan a remarkable industrial, commercial, military, political and social progress. Everyone has witnessed that the Republic of China stands as a shining example of democracy in action for all of Asia.

Each of us will return home a proud ambassador of goodwill, heralding to friends and neighbors and all Americans that the continued benefit not only to our own two nations, but to the whole free world, requires the maintenance and strengthening of the long-standing friendship and treaty of alliance between the United States and the Republic of China.

GENOCIDE: AN INTERNATIONAL CONCERN

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have claimed that genocide is not properly an international concern and so should not be outlawed by an international treaty

The original United Nations resolution justified the treaty by declaring "that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law." Furthermore, the act of genocide, even when committed in other countries, does affect our country. Not only can we be inundated with refugees, as after World War II, but all of civilization is impaired when entire human groups are exterminated. Most importantly, the act of genocide has often been associated with threats to or breaches of international peace and security. Therefore, the occurrence of genocide anywhere in the world is as much a matter of international concern as the spread of nuclear weapons.

The Genocide Convention, as international legislation, is not unique. Although it is a relatively new concept, the idea that practices of states themselves could be illegal has gained force since the atrocities of World War II. Since then, the United States has ratified international treaties dealing with slavery, refugees, arms and drug traffic, and the protection of seals and migratory birds. Surely the time has come to assert our position on the extermination of groups of people.

The Genocide Convention does not subvert the processes of the U.S. Government. Rather, it is an international treaty that seeks to prevent genocide by asking each ratifying country to condemn genocide under its own law. When we ratify this treaty we will show our commitment to an international concern. Let us not delay any longer.

DISABLED AMERICAN VETERANS' LEGISLATIVE PROGRAM

Mr. THURMOND. Mr. President, today the national commander of the Disabled American Veterans, Frank J. Randazzo, presented to the Committee on Veterans' Affairs, the legislative program of the DAV for the first session of the 95th Congress.

In his remarks, Commander Randazzo commended the Veterans' Affairs Committee for its responsiveness during this Congress to the needs of the disabled veteran. However, he urged the committee to continue to update its programs and to make specific, needed adjustments in the disability and death compensation program, the hospital and medical care system, in educational benefits, as well as in the fields of VA housing, insurance, and burial benefits.

Commander Randazzo's remarks are consistent with the commitment of the DAV since its organization in 1932, to champion the cause of the disabled veteran, his widow, and his dependents.

Mr. President, in order to share Commander Randazzo's presentation with my colleagues, I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF FRANK J. RANDAZZO

Mr. Chairman and members of the committee: It is a distinct pleasure to appear before you on behalf of the 517,000 members of the Disabled American Veterans to present our legislative program.

As the distinguished members of the Committee are well aware, the Disabled American Veterans was organized in 1920 and chartered by the Congress in 1932, to work for the physical, social and economic rehabilitation of all disabled veterans.

Our objectives, which have remained unchanged throughout the years, are to obtain for those veterans who have been disabled in the wartime service of our Country:

Fair and just compensation for disabilities incurred, or aggravated by military service;

Proper medical care and treatment for such disabilities;

Suitable and gainful employment to offset the effects of such disabilities;

Adequate benefits for the widows, children, and dependent parents of veterans who die as a result of service-connected disabilities.

It therefore follows that our legislative program is designed to advance the interests and promote the welfare of all wounded, injured and disabled veterans, their widows and dependents.

Mr. Chairman, it is appropriate to note that this is our second appearance before this Committee in 1976—a "unique" circumstance necessitated by the newly instituted Congressional Budget Process that requires all Standing Committees to determine their legislative initiatives very early in each new Session of the Congress.

Mr. Chairman, our most recent National Convention held in Miami Beach, Florida, adopted a variety of resolutions calling for improvement in the various benefit programs afforded to our Country's service-connected disabled veterans, their dependents and survivors. I shall discuss these Convention mandates in a moment, but I would be remiss if I did not first express the DAV's sincere appreciation for the veterans' legislation initiated by this Committee and approved by your colleagues in the 94th Congress.

Your endeavors during this period have resulted in meaningful improvements in all of the major VA benefit programs. Additionally, your aid and support have been instrumental in the ability of the DAV to achieve two other important objectives which were not within the jurisdiction of your Committee—retention of the tax-exempt status for all VA benefits and the return of the observance of Veterans Day to November 11.

The record of this Committee during the last two years is indeed a testimonial to its genuine concern for promoting the continued welfare of our Nation's service-connected disabled veterans and their families. It instills in me the confident knowledge that the legislative proposals which I shall now discuss will receive your sympathetic and serious consideration.

SERVICE-CONNECTED DISABILITY AND DEATH COMPENSATION PROGRAMS

Mr. Chairman, perhaps no other Federal program symbolizes the manifest concern held by the American people for their wartime disabled veterans than does the VA's disability and death compensation programs. Compensation for impaired earning capacity due to service related wounds, injuries and diseases is essential if the disabled veteran is to have his proper place in our society.

Our membership is therefore most grateful for your efforts in guiding the Veterans Disability Compensation and Survivor Benefits Act of 1976 through the Congress. The results of this legislation will soon be materially evident by the 8% increase in the benefit checks of some 2.5 million disabled veterans, their widows and orphans.

We are also very pleased that the 1976 Compensation Act contains the DAV proposal for a scientific study to determine if there is a causal relationship between amputations and subsequently developing cardiovascular conditions. Establishment of such a relationship would prove very beneficial to disabled amputee veterans in the adjudication of their claims for service-connected disability, as well as important to the cause of understanding and treating heart disease itself.

Mr. Chairman, our most recent National Convention has again mandated the DAV to seek an upward adjustment in service-connected disability and death compensation payments.

In justification of this request we would point out three facts: (1) experience has shown that the forces of inflation are constantly at work, (2) current data indicates that the unemployment rate among disabled veterans is in excess of 25 percent, and (3) our proposal concerns a legislative initiative that would not be funded or become effective until Fiscal Year 1978. With these thoughts in mind we request your continued effort to assure that these benefit payments remain adequate. We urdge that you remain cognizant of these facts as you deliberate upon veterans legislative priorities for the period October 1977 through September 1978.

Our membership has also reaffirmed a long-standing DAV objective—the presumption of service-connection for the cause of death in those cases where a veteran is permanently and totally disabled from service related conditions. Your serious consideration of this proposal in the past, as evidenced by the fact that you have twice required the VA to provide an accounting of their disposition of such service-connected death claims, is most appreciated.

Results of the second VA study are soon to be submitted to the Congress and we urge the Committee to give all favorable consideration to this beneficial and humanitarian liberalization of present law.

Mr. Chairman, we have two suggested improvements which relate to the VA's Automobile and Adaptive Equipment Award as authorized under Chapter 39, Title 38, U.S. Code.

The first would extend entitlement to this award to service-connected disabled veterans of World War I who meet the current eligibility criteria—loss or loss of use of an extremity or blindness. We think it a matter of simple justice that this benefit, long denied to World War I veterans, be extended to them just as it is to every qualifying veteran since World War II. Such an extension—the cost of which is negligible—would help to allay the criticism of those who claim that the Congress is unresponsive to the needs of veterans who fought in the First World War.

Our second proposal would extend entitlement to automotive adaptive equipment—excluding the $3,300 grant for vehicle purchase—to service-connected disabled veterans whose knees or hips are ankylosed at a "favorable" angle. Presently such veterans are not entitled to any automotive benefits as their disabilities do not meet the established criteria which govern a "loss of use" determination.

However, many of these veterans must purchase adaptive equipment at their own expense in order to meet the vehicle licensing requirements of their states. In our view, this is an unfair financial burden that could be lifted from these service-connected disabled veterans at a very low cost to the government.

Mr. Chairman, our National Convention delegates have also approved a resolution calling for the enactment of legislation which would provide for the preservation of all disability compensation rating evaluations that have been continuously in effect for ten or more years.

In this connection, we would point out that Section 359 of Title 38, United States Code now provides that service-connection for any disability which has been in force for ten or more years shall not be severed, except upon a showing of fraud or that the person concerned did not have the requisite service or character of discharge.

We are convinced that the length of time for the preservation of disability rating evaluations should be the same as that which currently applies to the protection of service-connection and we strongly urge your favorable consideration of this proposal.

Two other objectives of the DAV which relate to the VA compensation program would benefit veterans who were captured in combat and held as prisoners of war. The first would provide a minimum service-connected disability rating of 50 percent for any veteran who was a POW for six months or more. The second would liberalize and extend the presumptive period for service-connection of chronic diseases for this same category of veterans.

It is a well documented fact that lengthy detention by the enemy in all military conflicts since World War I has caused American servicemen to suffer extreme mental and physical privation. It is also true that medical evidence required by law to substantiate a claim for disabilities incurred while a prisoner of war is difficult, if not impossible, to obtain. We therefore urge your sympathetic consideration of liberalizing these benefits for this worthy group of combat veterans.

HOSPITAL AND MEDICAL CARE

Mr. Chairman, I would now like to discuss the VA program of hospital and medical care—the continuation of which is of paramount concern to the DAV and, I know, to this Committee.

In fulfilling its important mission, the VA has over the years developed a nationwide network of health care facilities that defies comparison. Beyond doubt, our VA medical system is a National resource of which we can be proud; a resource which stands ready to serve the needs of America's 29 million living veterans and their families.

Recognizing this we are truly grateful that this Committee has placed itself in the vanguard of those who maintain that the VA medical care system must never be merged with or become subservient to any other Federal agency or program.

The VA medical program is a fundamental component of our Federal benefits system. Impair its integrity and you will see the beginnings of an erosion process that could eventually include all veterans' programs.

Therefore, in the area of veterans medical care, Mr. Chairman, my first and foremost request of this Committee is that you continue to do all that you can to keep America's VA hospitals for America's service-connected disabled veterans.

In addition to this primary concern, our Florida Convention approved a number of resolutions calling for improvement in veterans health care services. Several of these are, I feel, paramount in nature and I am happy to note that some have been incorporated in legislation presently pending in the Congress.

In an effort to provide adequate salaries for VA medical personnel, the DAV strongly supported the Physicians and Dentists Pay Comparability Act of 1975. The special and incentive pay authorized by this legislation has been an invaluable aid to the VA in the recruitment and retention of highly qualified physicians and dentists. However the authority of the VA to offer these monetary incentives will expire on September 30, 1976. We therefore urge that the time limitations of P.L. 93–123 be extended until such time as the crucial problem can be resolved.

Another major legislative objective of the DAV is to achieve a priority in outpatient treatment for service-connected disabled veterans in our VA hospitals. Quite frankly we find that priority treatment for these veterans—the original beneficiaries for whom the system was created—is not uniformly applied in all VA hospitals. We therefore urge your positive action on legislation that would require the Administrator of Veterans Affairs to prescribe regulations to ensure that the highest priority for outpatient treatment shall be accorded to veterans with service-connected disabilities.

In keeping with our desire to see the VA hospital system direct its attention and resources to the service-connected veteran, we also request the enactment of legislation that would provide complete medical services for any veteran with a service-connected disability of 50 percent or more.

Finally, Mr. Chairman, we propose an increase in VA allowances paid to veterans as reimbursement for authorized travel expenses and to private and State Nursing Homes for veterans care.

In the case of travel allowances to and from VA facilities, the current stipend of 8 cents per mile is totally unrealistic and inadequate. We support a figure of 15 cents per mile which is equal to that now paid government employees travelling on official business.

Similarly, the present VA payments for nursing home care are so low that they discourage the acceptance of severely incapacitated veteran patients by these facilities. If the nursing care program is to fulfill its mission, these VA payments must become competitive and are therefore in need of an upward adjustment.

EDUCATIONAL BENEFITS

We have two National Convention mandates calling for improvement in VA educational benefits.

The first concerns Vocational Rehabilitation benefits for veterans in need of training due to a service incurred disability.

On June 30, 1975, these benefits terminated for all disabled veterans of World War II and the Korean Conflict—many of whom were in training at the time. In our opinion, termination of this training for seriously disabled veterans is counterproductive to the basic philosophy of the program. We therefore urge enactment of legislation which would repeal the June 30, 1975, termination date and give the VA Administrator discretionary authority to extend entitlement for such periods as he deems appropriate.

My second proposal, Mr. Chairman, relates to the War Orphans and Widows Educational Assistance Program. As you know these benefits are presently extended to the eligible survivors of veterans whose deaths were service related and to dependents of veterans who are permanently and totally disabled from service-connected causes. In line with the VA's classification of "serious disability", we request the extension of these benefits to the dependents of veterans rated 50 percent or more disabled.

EMPLOYMENT

Mr. Chairman, America's disabled veterans owe this Committee a special vote of thanks for its initiatives in the employment area. However, disabled veterans have been particularly hard-hit by the catastrophic rates of unemployment in the United States during recent years, and they critically need our combined efforts in this area.

More than 7 million Vietnam Era Veterans—over 400,000 of them disabled—have entered the work force, and their employment needs are vast in scope. It is generally acknowledged that the unemployment rate among disabled veterans is significantly higher than that of the general public, a tragic statistic considering that it applies to those who sacrificed physical and psychological well-being in the military service of their country.

To help solve this problem, the DAV feels that the Veterans Employment Service should be given a greater degree of authority within the Department of Labor. Specifically we strongly recommend that the position of VES Director be raised to the level of an Assistant Secretary of Labor, so that he will have the power he needs to be truly effective.

Another form of employment assistance for disabled veterans is the Affirmative Action Program which requires Federal contractors to give special consideration to the employment of disabled and Vietnam Era veterans.

For these purposes a "disabled veteran" is defined as one whose disability is rated as being 30 percent or more disabling or as one who was discharged from military service because of a disability incurred in the line of duty.

Mr. Chairman, a disability rated at 10 or 20 percent may very well constitute a more pronounced employment handicap than one rated 30 percent or more disabling. To insure the proper employment priority for all disabled veterans, we therefore recommend that the criteria for participation in this program be lowered to include any veteran with a compensable service-connected disability rating.

In discussion of employment problems, Mr. Chairman, I would like to point out that the Comprehensive Employment and Training Act—CETA—does not provide for preference to disabled veterans in its programs. Indeed, participation by disabled veterans in CETA programs has been minimal. We therefore urge that legislation be enacted to provide for enrollment of disabled veterans in CETA programs on a priority basis.

HOUSING, INSURANCE, AND BURIAL BENEFITS

Mr. Chairman, with your kind indulgence I have five other proposals which touch on the VA programs of housing, insurance and burial benefits which I would like to bring to your attention.

The first deals with specially adapted housing benefits for seriously disabled veterans as authorized by Chapter 21 of Title 38, U.S. Code. As you know, veterans who have suffered the loss or loss of use of one upper and one lower extremity are presently excluded from the $25,000 housing grant.

The DAV has long felt that these veterans are so seriously impaired that they have a definite need for specially adapted housing. We therefore urge that the eligibility criteria for the housing grant be amended to include any veteran who has suffered the service-connected loss or loss of use of two or more extremities.

In the area of insurance benefits I have two proposals. First, that the face value of National Service Life Insurance, which has been set at a maximum $10,000 since its inception in 1946, be increased to $20,000. Certainly the rise in the cost of living that has occurred since World War II more than justifies such an increase.

Second, we suggest that the present one year application period pertaining to Service Disabled Veterans Insurance (RH) be extended to two years from date of disability determination. We feel this one year period is unduly restrictive and that disabled veterans should be given this additional time in order to evaluate and act upon their life insurance needs.

Mr. Chairman, the DAV is adamantly opposed to the VA proposal which calls for suspension of the $250 burial allowance in those cases when a veteran's survivor has received a Social Security lump sum death payment. We have appreciated your past support of our position on this matter and urge that it continue in the future.

We also ask that you continue with your efforts to expand the VA's National Cemetery System. We are truly grateful for your recent efforts in this regard as evidenced by the passage of legislation authorizing new National cemeteries in the States of California and Virginia. It is the position of the DAV that all veterans should be entitled to burial in a National Cemetery that is reasonably close to their homes, and we strongly support legislation to provide at least one National Cemetery in each State.

CLOSING REMARKS

In closing, Mr. Chairman, I want to express again our grateful appreciation for giving us this opportunity to appear before you. I hope and trust that the legislative objectives that I have presented here today will receive your early and favorable consideration. I cannot emphasize strongly enough that the DAV holds the members and staff of this Committee in the highest regard. I pledge to you the complete cooperation of our organization in a mutual effort to improve and protect the benefits and services for America's service-connected disabled veterans, their dependents and survivors.

Thank you very much.

S. 2823, THE RURAL DEVELOPMENT ACT OF 1972

Mr. HUDDLESTON. Mr. President, last Friday the Senate passed S. 2823, which amends title V of the Rural Development Act of 1972 to assist small farmers in upgrading their farming operations. The intent of this bill is to reinforce the commitment of Congress toward preserving the small farm.

I realize some so-called experts would argue that there is no point in trying to help those farmers who are operating farm units which are too small to sustain a family entirely. I take exception with this view.

During the past 10 years the USDA Extension Service has supported a wide variety of small farm projects. These projects have yielded much subject matter and methodology knowledge regarding extension programs for small farmers.

Dr. Raymond C. Scott, Assistant Administrator of the Extension Service, USDA, in testimony before the House Subcommittee on Family Farms and Rural Development on H.R. 12917, the House companion to S. 2823, related the economic and social results of a recent study of the Missouri small farm extension program. Dr. Scott indicated the study showed a benefit-cost ratio of 3.5 to 1 for public investments in a program to upgrade farming operations of small farmers.

Dr. Scott further stated that:

To date this clientele group—the small farmers—has not been given a high enough priority in the use of public resources to support a program of sufficient magnitude to have a significant impact on improving farm operations and income.

Mr. President, 80 percent of all farmers are small farmers. If we want the family farm to survive in America, Congress must make a commitment to preserve those farming units. And this legislation is intended to do just that.

There is no question that the Extension Service has in the past and is currently doing a magnificent educational job. The history of the Extension Service is filled with many, many success stories. But what we need now, in addition to the traditional functions performed, is an educational program whose target audience is small farmers.

I am not so foolish as to propose that a program of research and extension would somehow make a small unit capable of total support, but I do believe that by following the precepts of extension and cooperative State research many small farms can begin to produce more income for their owners, thereby making these farmers more economically independent.

Let us face it, after the many economic upheavals that have occurred in American agriculture in recent decades, those who remain on the land are largely there because they want to be.

They cling tenaciously to their too-few acres, because for them agriculture is a way of life, as well as a way of doing business. If we can help them stay on the land by simply refocusing our present activities slightly, then it would be foolish, cruel, and uneconomical not to take the appropriate steps.

The tragedy of New York City's economic status, and sprawling urban ghettos across the face of this land are living testimony to the fact that the mass migration of people from the farm to the cities was not without a cost to the Nation and local governments of tens of billions of dollars.

Therefore, it would seem fitting to me that we say something more to the small farmer than "adapt or die." To take the actions called for in this legislation would help the rural economy, and save the cities the agony of still more welfare recipients added to their populations.

In August 1975, the General Accounting Office submitted a report to the Congress entitled "Some Problems Impeding Economic Improvement of Small-Farm Operations." This report concludes that many small farm operators may be helped to increase their incomes through more intensive and specifically directed extension and research programs sponsored or financed by the Department of Agriculture. The report contained the following specific recommendations.

The Department should:

Identify small-farm operators in their productive years who depend on the farm as their primary source of income and categorize them according to their resources, abilities, educational experiences, and willingness to improve their operations by using available technology and efficient management practices.

Estimate the costs and benefits of programs needed to extend training and technical assistance to small-farm operators having the potential for improvement and present the information to the Congress for its consideration.

Examine the potential for research uniquely designed to improve the economic position of small-farm operators and, if such potential exists, consider the priority of such research in relation to other federally funded agricultural research.

Establish procedures for (1) evaluating the economic and social impacts of future research that could greatly change the productivity, structure, and/or size of existing farms, and (2) determining the assistance small-farm operators would need to plan for and adjust to the resulting changes.

The GAO report concludes:

The consensus of knowledgeable government and nongovernment people is that, although various factors contribute to small-farm operators' having relatively low volumes of farm sales, failure to use available technology and efficient management practices effectively is a primary reason many have lower volumes of farm sales than they might have and a major factor limiting improvements in their farming operations.

Although some publicly supported extension and research projects have related to the needs of small farm operators, the Department and land-grant colleges have not made a concerted effort to solve problems impeding the economic improvement of small farm operations. Also they have not adequately: First,

evaluated the economic and social impacts of production-efficiency research; nor second, determined the assistance that small farm operators need to plan for and adjust to changes brought about by such research.

Demonstration projects sponsored by cooperative extension organizations and the Tennessee Valley Authority have shown that some small farm operators are capable of increasing the productivity of their land and increasing their income.

The type and intensity of assistance provided, and resulting accomplishments, differed widely between those projects as did the abilities and resources of participating farmers.

More complete data on small farm operators is needed to determine the type and extent of assistance which would be useful and to provide the basis for planning extension and research programs oriented to the specific, known needs of small farm operators. Such programs could aid in meeting the world's food and fiber needs as well as increasing these farmers' incomes.

Mr. President, the response of the Department of Agriculture to the GAO report was similar to its implementation of the small farmer section of the Rural Development Act. Negative.

The Department said incomes of small farmers would not necessarily rise as a result of a concerted effort in a small farmer program, and therefore, no further action on the GAO recommendation is expected.

It seems to me that this kind of response gives credence to allegations that the Department of Agriculture has become the home province of factory farms and big food companies.

Now Secretary Butz has said that most of his budget goes for "welfare programs" such as food stamps and child nutrition. That is correct. Congress had to drag the Department kicking and screaming to get into nonfarm rural development, and now it uses rural development as an excuse not to help small farmers.

It seems to me that if USDA is only to be concerned with commercial agriculture, then we ought to make it a bureau within the Department of Commerce and get on with the business of helping rural people.

But Abraham Lincoln charged the USDA to be the people's department, and that is what I believe it must be. And it can be.

The Department and its cooperating State agencies are uniquely structured at the ground level to provide all kinds of assistance to all kinds of rural people. These agencies have done this in the past, and they must continue to do it in the future.

Mr. President, last October I introduced legislation which would extend the authorization of title V, the Rural Development and Small Farm Research and Education title, through September 30, 1979. This authorization extension has passed Congress and been signed by the President.

S. 2083 amends section 502(c) of the Rural Development Act to provide for a small farm extension, research and development program that consists of the following:

First. A comprehensive study and survey to identify small farmers, and to determine their resources, abilities, education, and experience.

Second. A program designed by the USDA and the Cooperative Extension Services for improving operations of small farmers.

Third. Procedures for providing for regular updating of the study, survey, and program.

Fourth. Research and development with respect to measures for upgrading small farmer operations.

Fifth. The Secretary of Agriculture is required to submit an annual report on his stewardship of this program.

Mr. President, I believe in, and will continue to support a strong American agriculture. It is essential for our nutritional well-being, for our international trading posture, and for the future of the world. And, in order to remain strong, American family farms must be economically strong. I feel the long-range benefits of this bill are of tremendous value.

U.S. LAW VIRTUALLY HALTS GREAT LAKES SHIPPING

Mr. PERCY. Mr. President, when the St. Lawrence Seaway opened up oceanic traffic to America's heartland 17 years ago, there was a hope that it would turn the five Great Lakes into America's fourth seacoast.

Unfortunately, a seemingly benign Federal law has cast a chill on that hope, according to Chicago Tribune columnist Bob Wiedrich.

Although excellent port facilities exist at Chicago, Milwaukee, Duluth, and other Midwest cities, almost all cargo of the U.S. Department of Agriculture shipped overseas moves by rail to ocean or gulf ports for shipment, according to Wiedrich.

He attributes this to the 1954 Cargo Preference Act that requires that a certain amount of federally financed freight must move on U.S.-owned ships.

Basically that goal is a worthy one. For a variety of reasons, however, U.S. shipping companies have failed to ply the Great Lakes. Hopefully, that may be changing. Foreign companies, in recent years, have shipped into Great Lakes ports. But because of the 1954 law, almost none of the foreign vessels have carried USDA exports, Wiedrich notes.

The result of this law has been a loss of jobs at Great Lakes ports and additional costs to taxpayers by requiring the expensive shipment by rail of foodstuffs from the Midwest to distant ports, Wiedrich concludes. In Chicago alone, the number of USDA-aid cargoes has dropped 59 percent during the last year, with a 29-percent reduction in the number of hours worked by longshoremen. Here is a statute designed to protect the U.S. merchant marine fleet that actually may be resulting in a loss of American jobs at Great Lakes ports and additional costs to taxpayers.

Consideration should be given to amending the law to permit the movement of U.S.-Government cargoes from Great Lakes ports in foreign ships, until U.S. shipowners decide to return their vessels to the Great Lakes in greater numbers than they are now doing, the Wiedrich column suggests.

Sometimes it is not only the regulations which agencies issue that should be called into question but, equally important, the actual laws under which they operate. If this law is not having the positive impact that Congress intended on enacting it, it should be reexamined in that light.

I ask unanimous consent to have printed in the RECORD the insightful and well-written column by Mr. Wiedrich, appearing in the July 27, 1976, edition of the Chicago Tribune.

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

[From the Chicago Tribune, July 27, 1976]

LAW HITS SHIPPING ON GREAT LAKES

(By Bob Wiedrich)

Uncle Sam's shipments of high-protein wheat and other free food to starving Third World populations are undoubtedly a boon to mankind.

But to longshoremen and port operators on the Great Lakes, that branch of the shipping business is a bust.

Little of the United States Department of Agriculture cargo moves through ports such as Chicago, Milwaukee, Duluth, Superior, and other harbors comprising the nation's fourth seacoast.

Instead, the foodstuffs are shipped by rail at far greater cost to taxpayers because of longer distances to Gulf and West Coast ports to conform with requirements of the 1954 Cargo Preference Act that a certain percentage of government cargo must travel in U.S. ships.

That's great for the American maritime industry.

But it is a severe blow to the Great Lakes ports, whose loading docks often are closer to the grain-producing areas of the Middle West than coastal ports and seem a more logical jumping-off point for the foreign-aid cargoes.

The problem, unfortunately, is that few freighters flying the American flag call at Great Lakes ports.

In fact, from 1966 until last year, not one U.S. flag ship made a scheduled sailing between the Great Lakes and overseas ports. What traffic there was traveled aboard foreign ships.

So the Great Lakes ports, for the most part, lost out on the bulk of the USDA shipments that might otherwise have moved through them, generating jobs and revenue.

Now, fortunately, things are turning around a bit. Since last year, a handful of ships flying the Stars and Stripes have ventured through the St. Lawrence Seaway in search of cargoes with the help of federal subsidies.

Capt. Verner Soballe, Chicago Port director, reports two American shipping lines, Lykes Brothers Steamship Co., Inc., and Farrell Lines, Inc., have 15 overseas sailings scheduled from the Port of Chicago during 1976.

And there are another five American registered lines bidding for business on the Great Lakes during 1977.

"The Department of Agriculture ought to recognize that there are now enough U.S. flag ships using the Great Lakes to take care of some of the aid cargo shipments," Soballe said.

The failure of American ships to participate in hauling overseas cargo from the Great Lakes for nearly nine years was prompted by several factors.

Limits on the size of ships capable of squeezing through the St. Lawrence Seaway played a role in the decline of such service. So did labor trouble in several ports. The

cost of expensive fuel needed to make the two-week round trip into the lakes was also a deterrent in recent years.

Lastly, the higher costs of American labor and ship construction made it tough for U.S. ship owners to compete with foreign vessels. And the Great Lakes and the seaway are closed for nearly four months annually by ice and that, too, reduced the profit-making margin.

Painfully, port operators on the Great Lakes had to conclude that the glowing predictions of maritime magnificence made when the St. Lawrence Seaway opened 17 years ago this month were so much hogwash.

Even Uncle Sam couldn't give a helping hand with his cargoes of free food because of being caught in a legal trap of his own making—the Cargo Preference Act of 1954.

Milwaukee Port Director John A. Seefeldt charges that mishandling of the act's provisions has resulted in staggering losses of longshoremen's work hours at several Great Lakes ports.

Diverting the USDA cargo to Gulf and West Coast ports is costing taxpayers millions of dollars more in freight bills and ports such as Green Bay, Wis., which previously handled USDA shipments, have been badly gored in the pocketbook.

Green Bay, he said, reported a loss of 67 per cent in longshoremen man-hours through last month, compared with a comparable period a year ago.

Chicago, according to figures compiled by Harrison Tyler, president of the International Longshoremen's Association, suffered a 29 per cent cut in man-hours worked in the year ended last May when compared with a year ago.

And USDA aid cargoes through the Port of Chicago dropped by 59 per cent, as more government shipments were diverted to coastal ports.

Milwaukee, according to Seefeldt, has not yet had the disastrous impact he blames on the loss of government cargo, largely because it handles more general cargo.

However, the consequences could become equally grave for Milwaukee if the agriculture department diversions continue.

As Seefeldt explained, as the volume of USDA shipments declines, so will the number of ships attracted to pick up the cargo. And the reduced frequency of sailings will force Midwestern manufacturers to use other transportation modes to coastal ports for their wares.

Local congressmen had best put their noggins to work on this one before Great Lakes overseas shipping becomes only a memory.

WINDPOWER BETTER CHOICE THAN NUCLEAR

Mr. GRAVEL. Mr. President, I would like to bring to the attention of my colleagues the testimony of Loren L. Johnson in which it is theorized, convincingly, that it would make better sense for the Portland General Electric Co. to build a wind powered system instead of the costly, dangerous nuclear one it is now considering. Mr. Johnson, who holds a degree in economics with a physics minor, concludes his testimony by saying:

To sum up, I find ample evidence that the energy needs of Oregon from 1985 onward, which the Applicant [Portland General Electric] is interested in satisfying [via nuclear power], can be provided more economically and in a more environmentally sound manner by wind energy conversion systems than by either of the thermal power systems to which the Applicant and Nuclear Regulatory Commission Staff addressed their testimony.

Mr. President, Mr. Johnson's conclusion makes a lot of sense. Nuclear advocates who loudly proclaim that without nuclear power our economy will fail, people will lose jobs, and we will all end up back in the caves are playing a cruel hoax on us because in no way can anyone predict the true costs of nuclear power—including the costs of nuclear insurance, accidents, sabotage, radioactive waste "disposal," nuclear fuel, or the billions of dollars we may need to spend for care of cancer and genetically damaged victims of radiation exposure. Since every one of the large nuclear facilities now being built produces, during normal operation, the radioactive equivalent of about 1,000 Hiroshima size bombs every year—and as many as 1,000 plants have been projected by the turn of the century for the United States—we are facing a truly monumental problem. One-thousand plants multiplied by 1,000 Hiroshima bombs' worth of radioactivity would mean the production of the equivalent of 1 million Hiroshima's radioactivity annually. Even if only 1 percent were to escape annually, it would mean the release into our environment of about 10,000 Hiroshima bombs' worth of radiation—year in and year out.

In contrast, wind power produces no radioactive garbage for us to pass on to our descendants. It is not subject to fuel embargoes, cartels, scarcity, and price increases because the "fuel"—wind—is free.

Mr. President, I ask unanimous consent that Loren Johnson's "Alternatives to Power" testimony be printed in the RECORD.

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

[Docket Nos. 50-514—50-515]

UNITED STATES OF AMERICA, NUCLEAR REGULATORY COMMISSION: BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

(In the Matter of Portland General Electric Company, et al. (Pebble Springs Nuclear Plant, Units 1 and 2))

SUPPLEMENTAL TESTIMONY OF LOREN L. JOHNSON

Alternatives to power

I have reviewed the two sentence mention of windpower on page 9-7, Section 9.1.2, Alternatives Involving Creation of New Generating Capacity, of the Final Environmental Statement of the Applicant and the NRC. I have also reviewed Section 9.2 alternatives Requiring the Creation of New Generating Capacity, of the Environmental Report, Vol. 2, of the Applicant. The latter document contained no mention of Pacific Northwest wind power potential. The former contains no references documenting its two-sentence conclusions of wind energy.

In my opinion, based on my knowledge of and experience with wind energy conversion systems, such a cursory examination of wind power constitutes gross neglect of the fact-finding process we are presently engaged in and is a rude insult to the intelligence of this board, the NRC, the people of Oregon and windpower professionals who have worked long and hard to provide useful public knowledge on wind energy. All of their work has evidently been totally ignored. If these environmental impact statements are to be a comprehensive, technical, economic and environmental decision-making tool, more information on windpower and solar power alternatives should be included. Although my testimony today will provide up-to-date, state-of-the-art information on wind energy, I must point out that the solar power section is also inadequate and should be re-done in a much more comprehensive fashion.

A comprehensive understanding of what we currently know about wind energy engineering and economics is not possible without a look at important phases in wind power history. In that context, I should like to present a film from NASA archives on the 100kwe Hutter-Allgaier wind-machines, built by North German electric utilities in 1958, and the 1.25 MWe Smith-Putnam of Rutland, Vermont, built by the Central Vermont Public Service Company in 1940. (Dim lights.)

The 100kw Hutter wind turbines are quite similar to the present 100kw NASA Lewis production prototype: 111 ft. diameter fiberglass blades on an 80 ft. tower which are hydraulically actuated either manually or automatically (i.e. unattended) for setting various angles of attack or for feathering in high winds. A recent General Electric preproduction model also borrows heavily from this wind generator design. The field of wind-turbines you see here was connected into a utility network and fed power to nearby German towns.[1]

The 1.25 MW Smith-Putnam was also connected into a utility network, one which had run out of hydro-power dam locations. Built during WWII without a priority for special alloys and before we knew as much as we now know about rotor flutter in large rotating aerodynamic systems such as helicopters and wind-turbines, one of its rotor shafts broke in a storm and its 8-ton blade landed 750 feet away.[2] This is, in fact, an example of the maximum credible accident which could occur with a wind energy conversion system. Even less severe in terms of damage to health, life and property would be the overturning of an entire tower with its blades and generator.

In both of these historical examples the wind generators ran unattended, monitored only by automatic sensing and switching equipment, as well as under direct human control. In the case of the Hutter machines, three wind-turbines could be controlled, automatically if necessary, from the equipment van that you saw. And that van was located far away enough so that even a thrown blade would be unlikely to reach it. Based on this example, it appears likely that modern computer control technology could easily monitor an entire field of remotely-sited, large wind-turbines.

In this context, the 1972 NSF-NASA Solar Energy Panel noted that because wind power is an historically mature technology based on the straight-forward application of well-understood engineering principles and practices in such areas as civil, electrical, structural, control and aerodynamic engineering, any problems likely to arise can be quite completely described, subjected to a body of existing engineering knowledge and experience, and rapidly resolved.[3] The validity of this statement is backed by the fact that the 1.25 MW Smith-Putnam took only two years from drawing board to power production.[4] The NASA 100 KW Mod O Plumbrook installation took 22 months. Based on that experience, the ERDA Federal Wind Energy Program RFP (Request for Proposal) requesting candidate utility proposals for the regional installation of WECS (Wind Energy Conversion Systems) to which PGE replied, requires that the wind plant be operational 19 months after contracts are let. Therefore, relative to the longer 10-12 year lead-times required for the design, construction and engineering "debugging" of large thermal power plants such as Pebble Springs, WECS are immediately implementable, subject only to the constraints of manufacturing production engi-

Footnotes at end of article.

neering. Unlike thermal power plants, wind plants are now mass-producible using airplane technology.

As you can see from the ERDA Wind Energy Program Summary chart (Attachment A) megawatt-sized WECS will be utility-grid operational before 1980.[5] This fact and the fact that four large aerospace companies, Boeing, Kaman, Lockheed, and General Electric, are willing and able to produce WECS for utilities suggests that WECS can meet any increased electrical energy demand in the Pacific Northwest after 1980.[6] Indeed, this was the point that Professor E. Wendell Hewson, chairman of Oregon State University's Atmospheric Sciences Department, made at the Congressional Wind Energy Hearings. Based on the Lockheed "Wind Energy Mission Analysis", Hewson stated that adding 1.9×10^{11} KWH via wind energy to our present Pacific Northwest hydro-power enereg base of 3.3×10^{11} KWH would raise the cost of energy from its present 1.07¢ per KWH to 1.59¢ per KWH, but that adding this same 1.9×10^{11} KWH using thermal power plant energy systems would lead to an energy cost of 1.96¢ per KWH.[7] Both Hewson and the ERDA Wind Energy Mission Analysis (Attachment B) have shown that wind power can meet the Pacific Northwest regional demand estimated in West Group forecasts.[8]

However, my experience in the Seattle City Light "Energy 1990" study, the potential for energy conservation now being re-emphasized in ERDA's new national energy plan,[9] and daily contact with citizens from all walks of life ingeniously figuring out ways to save dollars and energy, lead me to believe that utilities, including PGE, are now overbuilding and will soon have unused generating capacity waiting for conserving consumers to slowly catch up. Indeed, the Oregon Department of Energy recently produced an Oregon electrical energy demand forecast which shows slow growth until 1980 and then mild decline after that year.[10] Clearly there is increasing uncertainty as to whether we will need great blocks of power as represented by Pebble Springs.

If slower electrical demand growth continues, then large WECS become an even more favorable option, as it becomes financially prudent for a utility to opt for a more flexible, shorter time-lag energy technology. The reasoning behind this is as follows: With rapid electrical demand growth, the economies of scale weigh heavily in favor of installing plants larger than immediately desired, even though a high proportion of the new capacity goes unused in the first few years. The expectation that justifies this approach in economic terms is that if demand is increasing rapidly, the delay in full utilization of capacity will be brief, and consequently the loss due to higher capital costs will be such as to be offset by the economies of scale in using one large plant as against setting up small plants at frequent time intervals. On the other hand, if demand growth is slow, construction of large generating plants will result in long initial periods of unutilized capacity and unjustified fixed costs. In such a situation the utility may install smaller sized units at shorter intervals with small scale diseconomies rather than large ones spaced over long periods of time.[11]

With all of the above points in mind, I call your attention to page 8–22, Section 8.2.3, Projected Consumption in the Pacific Northwest, of the Final Environmental Statement. New generating plants must be planned years in advance only if decade-long lead times are required to put them in place. I have just shown that wind plants have very short, less than two-year lead times, even without mass-production. Therefore, to utilize wind power economically one does not need the long-term forecasts which tend to be the most inaccurate because, of course, as we look farther into the future there is less certainty. Rather, wind power allows a utility to get very close to its minimum reserve capacity before quickly adding another MW-sized unit of generating capacity.

With windpower, one can now add power capacity two years before it must actually be there, and when WECS mass production begins after 1980 it is likely that utilities will be able to add such wind-electric capacity one year or even six months before demand requires it. This concept of "incremental power capacity" is applicable now and will become increasingly important as energy conservation and efficient energy management take hold.

WECS not only give a utility more flexibility than conventional thermal power plants due to shorter lead-times, they also allow new technological innovations to be easily and rapidly incorporated as they occur. More efficient airfoils, lighter and stronger composite materials for airfoil fabrication, more efficient alternators, generators and power transmission equipment and even new tower designs, all of which are likely to occur, can update a wind-electric system with a minimum of downtime and lost energy production. This is possible due to the likely size of an array of field of WECS in which removing only one from service for retro-fitting of new components will not mean the loss of a large block of power and due to the fact that WECS are clean, rather than radioactively hazardous, energy technologies which are no danger to human health.

Earlier, I referred to Professor Hewson's Congressional testimony on Pacific Northwest wind energy costs, which assumed the installation of 87,900 MW of WECS capacity over the entire Western State Coordinating Council region. Let us now examine a situation in which the applicant has the same acreage as at Pebble Springs, 8400 acres,[12] but in one acre easement plots, similar to the multiple land-use situation of the Hutter-Allgaier wind-turbines you saw situated amid North German farmland. Let us further assume that each small site has the average annual windspeed of 15.71 mph (or 7.04 meter per second) of the applicant's Boardman Wind Energy Demonstration Site,[13] which ERDA has already selected as one possible site for the installation of a large WECS for field testing. Although the windspeeds at some of these sites may be 1 or 2 mph slower, as they are at Pebble Springs, or 1 or 2 mph faster, as Professor Hewson has found to be the case on the higher bluffs on both sides of the Columbia River Gorge all the way to Portland, the available data suggests that many such favorable wind sites exist, most as yet undiscovered.[14]

According to Ugo A. Coty, Technical Manager, Wind Energy Program, Lockheed-California, at the present level of federal support and technological development, his company could supply and aid in the installation of the number of WECS required to satisfy the 1257 MW demand which, according to the Applicant, must be met in the 1985 time frame.[15] Lockheed-California will be able to produce wind-electric plants rated at 1.7 MW, with blade diameters of 250 ft., beginning in 1980. The cost of wind energy from these units will be 2.35c per KWH at an initial investment cost of $610 per installed KW at average annual windspeeds of 7 m/s, or slightly less than the Boardman Wind Energy Demonstration Site's 15.71 mph (7.04 m/s).[16] The presently accepted practice, based on existing aeronautical theory, on the spacing of large wind-turbines so that the first does not produce a "wind-shadow" which reduces the energy output of the second one behind it, requires that large WECS be 10 windwheel diameters apart, in this case 2,500 ft., or less than one half mile. More than 95% of the energy in the wind is recovered by that distance.

A power capacity of 1257 MWe by means of 1.7 MWe WECS with a .51 capacity requires the installation of 1450 such units. This is figured as follows: 1257 MWe/1.7 MWe × .51 = 1257/.867 = 1450 wind turbine units.

This would require 1450 acres in 1-acre plots, in multiple-use easements as explained earlier. These 1450 large 1.7 MWe WECS would produce 11,020,176,000 KWH per year at an average annual wind speed of 7 m/s and a .51 capacity factor, figured as follows: energy output in KWH/year = (1450 units) × (1.7 MWe) × (.51) × (8766 hr/yr) = (1257.15 MWe) × (7866 hr/yr) = 11,020,176 MWH/yr = 11,020,176,000 KWH/yr.

(Note: 8766 hr/yr includes 6 hrs. each year for one day in leap year.)

According to Mr. Coty, Lockheed-California will be able to begin delivery of 4 MWe WECS starting in 1984 and his company could supply and aid in the installation of the number of such large WECS required to satisfy the 1257 MWe demand which, according to the Applicant, must be met in the 1988 time frame. These 4 MWe units will have 340 ft. blade diameters, and at average annual windspeeds of 7 m/s will produce energy at a cost of 2.1c/KWH at an initial investment cost of $520 per installed KW.[17] A power capacity of 1257 MWe by means of 4 MWe WECSS with a capacity factor of .5 requires the installation of 629 such units, figured as follows: 1257 MWe/(4 MWe) × (.51) = 1257/2 = 628.5 wind turbine units.

This would require 629 acres in 1-acre easement plots, with a spacing of 3400 ft (that's 340 ft diameter multiplied by 10 spacing diameters) between units. These 629 WECS will produce, at an average annual windspeed of 7 m/s, 11,027,628,000 KWH/yr, figured as follows: energy output in KWH/yr = (629 units) × (4 MWe) × (8766 hr/yr) = 11,027,628 MWH/yr = 11,027,628,000 KWH/yr.

I call your particular attention to the fact that, in satisfying the Applicant's 1985 and 1988 demand, 1450 acres are required for the 1.7 MW WECS and 629 acres are required for the 4 MW WECS, a total of 2079 acres, or slightly less than ¼ of the 8400 acre area of the Applicant's site.

Evidently the NRC Staff failed to realize that the Applicant's site was in the midst of the world's largest hydropower system, as they stated that "economic methods of energy storage" must be developed before wind power can be used for baseloads.[18] The Bonneville Power Administration has such economic energy storage facilities. They are called dams. Large WECS with hydroelectric systems, such as the Bonneville Power Administration, provide inherent energy storage, as illustrated in Attachment C. Throughout the year, average hydrosystem water flow stays about the same since we cannot yet increase rainfall at will nor ignore downstream riparian rights. The added generating capacity of large WECS allow the conservation of water until it is needed for peak power demands, at which time water can be allowed to flow through turbines at a higher rate than possible without WECS. Hydroelectric capacity is thereby increased and WECS are able to utilize the existing and inexpensive energy storage represented by the entire Pacific Northwest hydropower system. When the wind blows, water is saved; when the wind stops or peak power is needed, hydropower is used. Wind power, connected to hydropower, adds to the energy capacity of the system and thus permits a capacity credit to be allowed for the installed wind energy machines.[19]

As larger and larger thermal power plants are built, and especially those such as nuclear plants in which failure of one component can shut down the entire power plant or group of plants of similar design nationwide, larger and larger spinning reserves must exist which can immediately be thrown on line in order to take up the slack of a faltering 1000 MW plant. WECS are less likely to

Footnotes at end of article.

experience such failures due to the more conventional nature of their engineering, as previously explained. The failure of one WECS will not force the shutdown of another. The failure of one WECS in a large array of 1450 or 629 wind-turbines is a minor problem of 1.7 to 4 MW; not a major 1000 MW catastrophe.

To sum up, I find ample evidence that the energy needs of Oregon from 1985 onward, which the Applicant is interested in satisfying, can be provided more economically and in a more environmentally sound manner by wind energy conversion systems than by either of the thermal power systems to which the Applicant and the NRC Staff addressed their testimony.

FOOTNOTES

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[5] *Wind Energy Mission Analysis: Preliminary Summary for ERDA*, Lockheed-California Co., Burbank, California, 1976, page 16.

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[7] Hewson, E.W., *Testimony on ERDA's Fiscal Year 1977 Budget for Wind Energy Conversion Systems*, Presented before the Subcommittee on Energy Research and Water Resources of the Senate Interior Committee, Washington, D.C., March 2, 1976, page 15.

[8] *Wind Energy Mission Analysis*, op. cit., page 20.

[9] "A National Plan for Energy R, D, and D: Creating Energy Choices for the Future", ERDA 76–1, Vol. I, ERDA, Washington, D.C.

[10] Department of Energy, *Oregon Energy Forecast*, Salem, Oregon, 1976.

[11] Pachauri, K., *The Dynamics of Electrical Energy Supply and Demand: An Economic Analysis*, Praeger, Washington, D.C.

[12] *Final Environmental Statement, Pebble Springs Nuclear Plant United 1 and 2*, NUREG–75/025, April 1975, Nuclear Regulatory Commission, page 2–1.

[13] "Proposal for Boardman Wind Energy Demonstration Site: Submitted in Response to ERDA RFP E(49–18)–2283", Portland General Electric Co., Portland, OR, Page 5.

[14] Hewson, E. W., 1975, "Generation of Power from the Wind": Bulletin of the American Meteorological Society, Vol. 56, no. 7, pages 660–675.

[15] Personal communication, Ugo A. Coty, Wind Energy Program, Lockheed-California Co., Burbank, California, July 21, 1976.

[16] *Wind Energy Mission Analysis*, op. cit., page 8.

[17] Ibid.

[18] *Final Environmental Statement, Pebble Springs Nuclear Plant Units 1 and 2*, page 9–7.

[19] Personal communication, Ugo A. Coty, Wind Energy Program, Lockheed-California Co., Burbank, California, July 21, 1976.

WIND ENERGY MISSION ANALYSIS—APPLICATION OF WECS TO AUGMENT HYDROELECTRIC GENERATING CAPABILITY

[Example—WSCC region 1995]

	Forecast	Alternate 1	Alternate 2
Hydroelectric capability (megawatts)	64,600	64,600+ 87,900	64,600
Hydro plant factor	0.59	0.25	0.59
Annual hydroenergy (kilowatthours)	3.3×10^{11}	3.3×10^{11}	3.3×10^{11}
WECS annual energy (kilowatthours)	0	1.9×10^{11}	0
Fossil fuel annual energy (kilowatthours)			1.9×10^{11}
Cost of energy (cents per kilowatthour)	1.07	1.59	1.96

LOREN L. (LEE) JOHNSON: PROFESSIONAL QUALIFICATIONS

My name is Loren L. Johnson. I am a member of ECOTOPE GROUP, an organization incorporated in 1974 in the State of Washington and recognized as non-profit by the federal government under Internal Revenue Service 501(C)3 rules on organizations which do educational and scientific research and development work. Our emphasis is on the potential for energy conservation and on renewable energy sources of all kinds.

In that regard, and under contract to the Washington State Departments of Ecology, Institutional Industries, and Social and Health Services, I was involved in the design and construction of the only existing plant in the Pacific Northwest designed to produce methane gas and fertilizer from dairy cow manure. This 100,000 gallon bio-conversion plant is one of only five large-scale systems currently operational and one of only two in the nation which are not classed as experimental and located at universities. Recently we received notice from the ERDA Fuels from Biomass, Division of Solar Energy that, contingent upon ECOTOPE GROUP's agreement to participate in a national bio-conversion working group, consisting of university, manufacturer, and R & D organizations which would advise ERDA on appropriate directions for its agricultural and urban bio-conversion energy programs and on our agreement to conduct related research, we will be granted a contract to update the Monroe Methane Plant engineering drawings and to incorporate them into a workbook designed to aid farmers, ranchers and feedlot owner-operators in rapidly utilizing bio-conversion energy technology in their specific situations.

I have also been involved in the solar design and engineering of two solar homes in the Portland area and am presently engaged in the engineering design and application to HUD for financing a solar hot water system on the Lennox Hotel in downtown Portland, about 4 blocks from these hearings.

Recently, I was part of an ECOTOPE GROUP team which consulted to Northwest Environmental Technology Laboratories on the Seattle City Light "Energy 1990" study, an environmental impact statement on SCL's participation in two nuclear power plants. In that study, I was responsible for the technical, economic, environmental and institutional analysis of the potential for energy conservation and solar and wind energy systems. I was also part of an ECOTOPE GROUP team which consulted to Skidmore-Owings-Merril on the feasibility of integrating large-scale solar-electric and wind-electric systems with existing nuclear, coal and hydrogeneration in the Pacific Northwest. This research was done for the Energy Conservation Study section of the Bonneville Power Administrations "Role Environmental Impact Statement". In the near future, we will be advising the State of Montana on energy conservation, and the State of Idaho on solar-geothermal and wind-geothermal energy system configurations.

Additionally, I am editor of Rain: Journal of Appropriate Technology, 2270 NW Irving St., Portland, Or 97210. In that position I read over 400 professional journals, energy newsletters and government reports for energy conservation and solar and wind energy information which is of interest to Rain's 10,000 readers, and answer hundreds of calls and letters each month on these topics. With Ken Smith of ECOTOPE GROUP, I have conducted nine solar workshops in Oregon, Washington, Idaho, Montana, Wyoming, and California in which 1500 people were taught how to build their own solar hot water heaters.

Formerly, I was an instructor in energy conservation and solar and wind energy at Portland Community College and the Oregon Museum of Science and Industry; OMSI still receives my advice on energy educational programs and energy exhibits through my participation, with other Portland engineers, in OMSI's Technical Advisory Group.

I hold a B.A. in Economics, with a minor in Physics, from Carleton College, Northfield, Minnesota. I am a member of the International Solar Energy Society and part of its Appropriate Technology working group.

STANDARDS STILL NEEDED

Mr. GOLDWATER. Mr. President, in recent months we have heard a number of suggestions that the West Point honor system be abolished, because cheating scandals at the Academy indicate that the system has not worked. I am among those who feel this would be a grave mistake. Recently a constituent of mine, Dr. John D. Chickering, placed the situation in its proper perspective in a letter published in the Arizona Daily Star. As a former graduate of the U.S. Military Academy, who is presently an administrative law judge with the State of Arizona, Dr. Chickering deplores any effort to abolish or water down the West Point honor code. I ask unanimous consent that Dr. Chickering's letter be printed in the RECORD.

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

STANDARDS STILL NEEDED

Editor the Star:

A prominent United States senator has recently advocated doing away with the West Point honor system as "these multiple violations show that the system hasn't worked." I suggest that doing away with the West Point honor system will throw the baby out with the bath water; will prevent the possibility of the system's continued working as it has worked for nearly 200 years. When U.S. presidents violate the U.S. Constitution, should the Constitution be gotten rid of? When West Pointers violate the West Point honor code, should the code be gotten rid of?

Recently, too, the secretary of the Army has reportedly decreed that honor violators at the military academy should simply be, in effect, suspended for a year, a suspension which the superintendent of the military academy has reportedly and compliantly vouchsafed "won't count." Do two wrongs make a right? Do 200? Do we really do our youth and our nation a service by such politically-rooted rationalization, which holds that wrong is right if enough commit it? More preferable seems the Lincolnian parody: "Resolve to be an honest West Pointer; but if you can't be an honest West Pointer, then resolve to be honest without being a West Pointer."

Daily on the bench I am struck by the way in which "truth will out." All of us have seen such in the wake of the "Nixon years." This truism, and even elementary historical logic, both impel the conclusion that to continue to dally with Pompeiian seeds of self-destruction sown in an era of extremist permissiveness—either spawned within, or brought on by some alien fifth column without—must lead inexorably to futility at best.

Sinners we all are, but may our institutions and ideals not be dragged down by and with

our human frailty. Contrariwise, may our institutions and ideals, which have stood the test of time as characterological bulwarks, abide to inspire that very frailty to achievement and realization beyond the finite human dimension.

JOHN B. CHICKERING.

EDITORIALS ON DEFENSE

Mr. THURMOND. Mr. President, two recent editorials, one entitled "Red Power Grows" and a second entitled "Focus on Defense" appeared on the editorial pages recently in two outstanding newspapers in the South.

The first editorial, "Red Power Grows" appeared in the September 13 issue of the Aiken Standard newspaper, Aiken, S.C. The editorial pointed out the decisive and spiraling Soviet military buildup and took particular note of the absence of recent arms control negotiation progress.

The second editorial, "Focus on Defense" appeared in the September 13 issue of the Augusta Chronicle newspaper, Augusta, Ga. It noted recent warnings by Lt. Gen. Daniel Graham relative to the big Soviet buildup and noted as well the reluctance of Congress to more adequately respond to this challenge.

Mr. President, I ask unanimous consent that both of these editorials be printed in the RECORD.

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

[From the Aiken (S.C.) Standard, Sept. 13, 1976]

RED POWER GROWS

Uninhibited by agreements with the United States limiting strategic weapons, the Soviet Union has embarked on a crash program to further increase its superiority in conventional and regional nuclear forces. "There is no emerging threat in Asia or from NATO that would justify this massive Soviet investment," according to Dr. Fred C. Ikle, director of the U.S. Arms Control and Disarmament Agency, in a speech delivered Aug. 31 in Los Angeles.

Dr. Ikle disclosed that the Soviet Union is introducing a brand new regional ballistic missile, which has multiple independently targeted warheads (MIRVs). The USSR is deploying its new Backfire bomber, which it contends is intended for regional missions only.

He warned that success in the current strategic arms limitations talks (SALT) would do nothing to stop the growth of Soviet regional forces. SALT is designed to balance the intercontinental forces of the two superpowers.

"But at the very time that we bend every effort to curb these two gigantic forces," he said. "Russia's strength in regional nuclear bombers and missiles grows like a towering, dark cloud over Europe and Asia."

We have already expressed our view of the foolishness of arms limitations talks with the Soviet Union that do not cover the whole spectrum of military force. In one sense, agreements in the narrow area of intercontinental weapons are worse than no agreements at all, in that they tend to lull the American people into a false sense of security.

The overwhelming numerical superiority of Soviet ships, tanks, planes and other combat forces may or may not be balanced by the higher quality of U.S. men and material. We are troubled by reports that continue to surface about alleged deficiencies in the all-volunteer force that is one of the more questionable legacies of the post-Vietnam era. But when that Soviet numerical superiority is backed up by a "towering, dark cloud" of regional nuclear force, it is time that Americans wake up to the dangers into which they have been led.

Any intelligent assessment of the military imbalance now existing in Europe would have to concede enormous advantage to the Red Army in any future war there. Further, the Soviet navy today possesses the undoubted power to sever the great ocean highways over which Europe's—and America's—absolutely vital oil supplies move.

In our view, we are gambling heavily on (1) Russian good intentions, and (2) the credibility of our own willingness to fulfill a mutual suicide pact with the Soviet Union on that inevitable day when your bluff is called. That a nation so rich should have so limited its options is the height of folly.

[From the Augusta Chronicle, Sept. 13, 1976]

FOCUS ON DEFENSE

When the former chief of the Defense Intelligence Agency, Lt. Gen. Daniel O. Graham, says that the Soviet Union in the past decade has gone from 224 intercontinental ballistic missiles to more than 1,600, in sea-launched missiles it has gone from 29 to around 800, and in nuclear warheads it has gone from 390 to approximately 3,500, it is apparent that he has already come to accept a premise which would have been considered unthinkable only a few years ago.

That premise is, of course, that the United States can accept—as the basis of a livable if armed peace—simple parity rather than superiority in deterrent weaponry vis-a-vis the Kremlin.

And, most frightening, this comes at a time when all the indicators are that America now needs, as perhaps never before, to retain a clear superiority—both in nuclear arms and in the more conventional types. Indicators such as:

The complaint by General Graham and others that America has fallen from being 600 ahead in ICBMs to approximately 600 behind, and from 2,900 tactical aircraft ahead of the Russians to more than 350 behind in the past 10 years.

The disclosure by one top Ford Administration official that the Soviet Union today spends more money for arms than any other nation in the world since the Second World War. The Soviet Union's Communist bosses now spend 20 per cent or more of their Gross National Product (GNP) on arms. By contrast, America is allocating just over 5 per cent of our GNP to defense. And, according to this official, during the past 10 years the Soviet Union has outspent the United States in virtually every military capacity.

Reports from other quarters that the most worrisome aspect of the Soviet Communist strategy is their civil-defense program. It apparently is a high priority, with a budget of more than $1 billion a year. Furthermore, it is estimated that some 20 million young Russians receive some form of civil defense training every summer as part of annual "war games." This is compared to the United States civil defense program, which gets little money and is in sad shape.

It seems to us that the clear and present need for the United States is to upgrade, without delay, its nuclear and conventional armaments to the point of not mere parity, but clear superiority. Americans should demand that the Democratic-controlled Congress apply every dollar it can spare into the rebuilding of a U.S. fleet that is rapidly falling into obsolescence and the upgrading of nuclear defenses that apparently already are outgunned.

The American people should also demand that the B–1 bomber program be funded as quickly as possible. For, as General Graham states, replacement of America's aging B–52 fleet with the ultra modern B–1 will help immensely because it will force Moscow to keep spending heavily on air defenses. This is one of the reasons, the general further states, the B–1 is the weapons the Reds have tried hard to eliminate in the ongoing Strategic Arms Limitation Talks.

The need may be answered in full recognition of its urgency—unless the present spirit of acquiescence moves America a further step backward to accommodate a little arms inferiority in the mistaken belief that, like a "little inflation," it will be "good" for us—at which point we are undone.

SLUDGE: WHAT ARE WE GOING TO DO WITH IT?

Mr. PROXMIRE. Mr. President, as you and my colleagues know, the Federal Government has made an enormous investment in the construction of waste water treatment facilities in the States, the latest coming in the form of a $480 million appropriation for additional waste treatment construction grants, authorized under title III of the Public Works Employment Act of 1976, and appropriated in H.R. 15194, the Public Works Employment Appropriations Act. To date, well over $18 billion has been authorized for these important and necessary sewer facilities—facilities that most of us agree are desperately needed in our States.

Ironically, as Daniel Rapoport points out in an alarming article in the September 11 issue of the National Journal's environment report, the construction of more and better sewer treatment plants has led to the increasingly serious problem of what to do with the almost 300 million tons of sludge that is produced every year in and around our cities and towns. I am proud to say that for nearly a half century the city of Milwaukee has been tackling its sludge disposal problem, in part, by packaging the dried sludge and selling it as Milorganite—a natural organic fertilizer. But as Dr. Rapoport illustrates, even this resourceful and profitable method of disposing of sludge has its drawbacks and further research is necessary in order to stem this snowballing problem of sludge management.

Mr. President, I have taken many an agency to task for its failure to use its valuable research and development dollars to address our most pressing national needs, and I am certainly not suggesting that these already inflated R. & D. budgets be increased over present levels to tackle this substantial sludge disposal and management phenomena. However, I do feel that here is an opportunity for our scientific and environmental research agencies to tackle a significant, urgent, national problem, and hopefully come up with results that the average American taxpayer can touch and see. Our research agencies should reassess their funding priorities and focus more of their research efforts on problems such as this rather than throw money at the study of "why people fall in love" and "clench their jaws," or other similar projects where the results will never be concrete

or particularly useful to the average American citizen.

Mr. President, we all want clean water, streams, and lakes. The mounting growth of sludge indicates that we are getting what we are paying for. Now our efforts should begin to focus on what to do with the sludge we have created as the by-product of our environmental cleanup campaign.

Mr. President, I ask unanimous consent that the text of Dr. Rapoport's article be printed in the RECORD, and I urge my colleagues to give careful consideration to the issue raised.

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

SLUDGE—NOW THAT WE HAVE GOT IT, WHAT ARE WE GOING TO DO WITH IT?

(By Daniel Rapoport)

And now comes sludge. The unsightly and often odorous residue of treated sewage is the newest and fastest growing environmental problem facing American cities and towns. It is also the most ironic.

Sludge's very existence is a sort of good news-bad news joke. The good news is that we wouldn't have a sludge crisis if we weren't doing such an improved job of de-polluting the waterways. The bad news, of course, is that the more efficient a community's sewage treatment facility, the more sludge it has left to dispose of. And finding acceptable places and ways to get rid of sludge is driving sanitation engineers wild.

Traditional methods of sludge disposal are coming under attack from government agencies as well as ordinary citizens. Their objections range from a seemingly esoteric concern about the heavy metals found in industrial sludge to a mundane annoyance over the smells emanating from sludge lagoons.

At the same time, the volume of sludge is almost literally reaching near-mountainous heights. According to one federal estimate, the United States is producing almost 300 million tons of wet sludge a year. It has to be put somewhere: either in the ocean, in the air (through burning) or on the land. Sludge management officials have concluded that because of environmental and health reasons, the first two options are no longer acceptable. As a result, more sludge is being put on the land, where more people are learning about it.

"The quantity is growing and the awareness is growing," said Joseph B. Farrell, a sludge management research official with the Environmental Protection Agency (EPA).

In some ways, Washington is lagging behind the rest of the country when it comes to sludge awareness. The federal government's interest in sludge is concentrated on research into new methods of disposal and enforcement of restrictions on current techniques. But there is little evidence that anyone of influence in the Administration has decided that the time has come to treat sludge separately from the general problem of sewage disposal, to pull together the individual agency approaches to sludge management and to launch a government-wide attack on the problems.

THE PROBLEM

In Congress, a few Members, mostly from the Northeast, recently introduced legislation on sludge disposal. But no committee hearings have been held exclusively on the subject. As a matter of fact, Congress seems confused over where to put sludge. A staff member of a House subcommittee recently told a reporter she wasn't sure whether sludge was a solid or a liquid waste, and therefore couldn't tell a caller which committee held legislative jurisdiction over it. A similar dispute exists in the Administration, where EPA's solid waste and wastewater offices are conducting what one participant described as a minor "turf fight" over sludge.

How it began

The bureaucratic dispute is understandable. Sludge is a liquid suspension of the solid matters removed from wastewater. Before 1972, it was not a major national waste disposal problem. The solid matter taken from wastewater during sewage treatment didn't amount to that much.

Then, four years ago, Congress passed landmark legislation amending the Water Pollution Control Act (86 Stat. 816). The legislation set clean water goals for the nation and provided the means and funds for reaching them. The heart of the program was a requirement that municipal wastewater be put through a secondary level of sewage treatment, one that would remove the dissolved pollutants that had escaped the screening and settling process of primary treatment.

Before 1972, a municipality would empty dirty water into the nearest available body of water. The sludge left over ended up being buried, stored in lagoons, dumped into bays and oceans or occasionally burned.

"The public works director would pile it up somewhere and hope that he'd get promoted or transferred so he could leave the ultimate disposal problem to his successor," said a long-time observer of sludge management efforts.

But after 1972, it became difficult to ignore sludge. Streams and lakes were growing cleaner, but sludge repositories were filling up. The cities turned to other "solutions."

Ocean dumping

"For 35 years, Philadelphia stored its sludge in lagoons until it realized that it could dump it in the ocean," said a federal sludge specialist.

Philadelphia is not the only city using the ocean for sludge dumping. So are New York City, Boston, Los Angeles and metropolitan areas of New Jersey. But the days of dumping large amounts of sludge into the ocean are drawing to a close.

After a number of incidents in recent years in which traces of sludge showed up on Long Island beaches, the EPA ordered New York City and more than 100 other communities and commercial haulers to cease dumping sludge in the Atlantic Ocean by 1982. For approximately 45 years, communities have been barging their sludge to the New York Bight, an area about 12 miles off the shores of New Jersey and Long Island. Philadelphia, meanwhile, has been given a similar deadline by which it has to halt its disposal of sludge in the ocean.

For a while, some thought had been given to carrying the sludge farther out into the ocean, to a point where it was unlikely to find its way back to the beaches. But federal scientists ruled out that option because of sludge's danger to marine life.

The East Coast experience has convinced most sludge management experts that the ocean is out as a disposal area. Similarly, national efforts aimed at combating air pollution as well as prohibitive costs have sharply reduced the feasibility of traditional sludge burning methods.

Land disposal

Because sludge contains so much water, enormous amounts of heat have to be generated to reduce it to a relatively dry state. Before the Arab oil embargo of 1973, in the days when energy in America was cheap, the burning of sludge made sense. But with fuel costs soaring, and with municipalities forced to equip their incinerators with expensive air pollution control equipment, incineration has become less economical.

The land is where most sludge historically has been dumped, and, in the opinion of most experts, it is the place where it will continue to be dumped. But it won't be done in the same way.

Traditionally, land disposal of sludge first has involved subjecting it to a process through which most of sludge's organic matter is stabilized and the worst of its odors masked. It is then transported to a site where it is plowed into, laid out or sprayed onto the soil. If the sludge contains a substantial amount of water and the same site is used over and over again, the area turns into a lagoon. If the sludge is relatively dry or if it is spread out through a nozzle over large areas, the soil will be given a chance to absorb the moisture.

One of the problems with land disposal has been the availability of land. As urban areas continue to expand, usable sites diminish. Land also becomes increasingly expensive.

Another difficulty is posed by the aesthetic objections to sludge. People do not like living near sludge sites. Sanitation engineers say that disinfecting sludge does not always help because people often are not willing to accept the idea of living in the vicinity of sludge, which they broadly equate with sewage.

Some of the more imaginative methods of sludge disposal are also facing criticism.

Chicago does not have an ocean in which to dump its sludge, and it is not using Lake Michigan as a substitute. Instead, the city and Cook County have been employing what they regard as sensible and innovative alternatives—200 miles away, in Fulton County, Ill., corn is being grown on soil enriched by Cook County sludge, and Chicago sludge is also being evaluated for use in filling the ugly scars left by strip mining.

But now objections are being raised to the Chicago approach, as well as to similar techniques utilized by other cities that want to capitalize on the valuable fertilizer properties of sludge. (For 40 years, Milwaukee has been drying and packaging its sludge and selling it as Milorganite, "the natural organic fertilizer.")

As ecologically commendable as they may be, these methods of sludge disposal carry some possible dangers unless they are carefully controlled. There are three principal problems: nitrate pollution of the ground water; heavy metal contamination of crops grown on sludge-fertilized fields; and infection of soil and ground water by viruses, bacteria and other living organisms found in the human waste that constitutes most municipal sludge deposits.

SOME SOLUTIONS

Research into new sludge disposal techniques, most of it federally funded, is aimed at finding methods that eliminate dangers, satisfy aesthetic considerations and are economically feasible. Informal coordination between the agencies has largely avoided duplication of effort.

Pyrolysis

EPA, for example, has been concentrating on a method called pyrolysis. Basically, the technique calls for subjecting sludge to a combustion process without air or with very little air—similar to the process that creates charcoal. Its main advantage is that it will reduce appreciably the sludge mass. Its drawback, at the moment, is the amount of energy—and the accompanying costs—required.

Composting

The Agriculture Department, has directed its attention to composting, where sludge is mixed with wood chips and turned over in much the same way that a gardener produces compost from leaves and other yard matter. The Agricultural Research Service is conducting experiments at its Beltsville, Md. station, and is also monitoring the actual performance of sludge composting operations in Bangor, Maine and Durham, N.H. Eliot Epstein, a soil scientist at the research serv-

ice, said the result so far are good. The $50 a ton that the technique costs Bangor, he said, is partly offset by the compost with which the city can fertilize its parks and other public lands.

The drawback to composting is the amount of land that large cities would have to set aside. The present cost is also relatively high, but that might become less objectionable as Americans get used to expensive disposal methods.

Soil injection

At the National Science Foundation, research is directed at soil injection. Wet sludge is piped or trucked to a disposal site, where it is then pumped into a tractor-like device that squirts the sludge into the soil and mixes it with the dirt. The land thus is, in effect, cultivated with sludge. The city of Boulder, Colo. is using such a system.

Research at Colorado State University, where the soil injection system was developed, say that the danger of crop contamination can be avoided. Heavy metals in the sludge, for example, can be neutralized by regulating the soil pH (or alkaline level), researchers say. At the ultimate point, crop contamination can be avoided simply by not growing crops on the disposal site.

In a related project, the science foundation is funding a research project at Deer Island in Boston Harbor, where sludge is being irradiated by high energy electrons. The object is to kill the viral and bacterial agents in sludge, rendering it safe for injection into the soil.

Dr. Edward H. Bryan, who oversees the foundation's sludge management research, contends that the two processes together are sound from an economic as well as a technological point of view. The irradiation facility, he said, can be constructed for about $500,000.

Together with the soil injection process, he said, a community could handle sludge at a cost of less than $30 a ton. Bryan said this is cheaper than any of the other prospective alternatives.

The negative aspects to the NSF approach center on the familiar problems of preventing contamination of the soil and of assuring absolute safety at the irradiation facility.

Federal spending

In total, the federal government is spending less than $3 million this year on sludge management research. In terms of the scope of the problem, this is not, in the opinion of many experts, very much money.

But it nevertheless reflects a greater recognition of the problem that can be found in Congress. Capitol Hill has been extremely slow to respond to sludge problems. Reps. John W. Wydler, R-N.Y., and James J. Howard, D-N.J., have introduced legislation (HR 14775, HR 15163) on the subject, but for the most part the measures are directed toward the specific sludge disposal crisis faced by New York and New Jersey communities.

Drinan's bill

The only Member to propose a total assault on sludge has been Rep. Robert F. Drinan, D-Mass., author of the Sludge Management Act of 1976. The bill (HR 14862), which has attracted 30 co-sponsors, would authorize a major research and development program on sludge disposal and establish tight federal regulations on current sludge disposal methods.

Drinan does not foresee any action on his bill this year. But he is optimistic that the next Congress will give it serious consideration. Fellow Members, he said, are beginning to discover sludge problems back home.

Nevertheless, Drinan views sludge management as "an idea whose time has not quite come." He laments this because, he said, the problem has reached near crisis proportions.

City views

Drinan's view apparently is shared by the nation's metropolises. In a survey conducted for the Urban Consortium for Technical Alternatives, an organization of the 33 largest cities and urban counties, the nonprofit Public Technology Corp. asked local officials what they considered the 10 most pressing environmental and energy problems facing their communities.

Two of the 10 problems dealt with sludge—removing it from sewage and keeping it from seeping into drinking water supplies.

A member of the Metropolitan Sanitary District of Greater Chicago expressed his frustration with the sludge problem more pungently. Coping on one hand with the unrelenting sludge production of six million persons and facing simultaneously the growing restrictions on what to do with it, he warned that a solution had better be devised quickly.

"Or else," he warned, "some day the people of Chicago are going to flush their toilets and nothing is going to happen."

TRIBUTE TO MIKE MANSFIELD

Mr. METCALF. Mr. President, for more than four decades, I have had the good fortune to know MIKE MANSFIELD. I have known him as a teacher, as an administrator in the same college in which I was a student, as my Representative in Congress when I was in the service, as a fellow Montanan in the Congress of the United States—both as his successor in the House of Representatives, and for the past 14 years as his colleague in the Senate—but above all and more than all that, I have known him as a valued friend.

I join with Members of the Senate in their genuine regret that we are losing a leader who has brought us through so many crises. I join the people of America in deploring the fact that a significant and important public servant is retiring from public life, but I add to these the sorrow in parting from an old friend. No longer will MIKE's and my paths cross as we move about Montana; no longer will there be a little wave and a smile on the floor of the Senate. As we go our separate ways there will be more and more memories of a warm and sympathetic relationship.

Donna and I wish Maureen and MIKE all the health and happiness in their new life.

ON SPENDING $4.30 FOR CONGRESS

Mr. THURMOND. Mr. President, I read with interest an editorial in the September 16 issue of the Georgetown Times of Georgetown, S.C., concerning congressional spending.

"On Spending $4.30 For Congress" by Lawrence L. McConnell, one of the finest up-and-coming young editors in the country, is an eloquent indictment of wasteful Federal spending. The Georgetown Times has been serving coastal South Carolina since 1797. Its editorials are a faithful index of the feelings of the people there, and their feelings are no different from those of the majority of Americans. This editorial expresses a strong dissatisfaction with creeping federalism and the burgeoning Federal bureaucracy. It is my pleasure to share these concerns with my colleagues.

Mr. President, I ask unanimous consent that Mr. McConnell's editorial be printed in the RECORD.

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

ON SPENDING $4.30 FOR CONGRESS

Four dollars and thirty cents doesn't sound like much. But multiply $4.30 times every man, woman and child in the United States and you have the amount that Congress now spends on itself annually.

In a study developed by the Tax Foundation, Inc., Congress is shown to have quadrupled its own budget since 1960. The figure is now approaching $1 billion—just for the payroll, new agencies and operating costs.

Compared to other government spending, the $1 billion figure is miniscule. But it does reflect the meteoric growth in federal spending since the early 1960s. The very group responsible for that growth has outpaced every other facet of the federal bureaucracy. The Congress' budget increased 441 per cent from 1960 to 1976, while overall federal spending ballooned some 305 per cent during the same period.

Compounding these distressing statistics is the simple fact that the very representatives whom the public relies upon to control government spending has no check, no balance upon itself, other than a presidential veto or a vote at the ballot box.

The Tax Foundation summed up this state of affairs by commenting that the Congress "determines its own budget which, under law, must be included in the President's budget submission exactly as proposed. It makes its own rules, determines its own staff and salary levels, provides itself allowances and perquisites . . . Beyond this, each house makes these determinations for itself. When the annual legislative appropriation bill is acted upon, the House passes only upon its own funds and the Senate later adds in appropriations for its operations and seldom, if ever, does either body challenge the operations of the other."

In reviewing this report in an election year, Georgetonians should be wary of campaign rhetoric about cutting out waste and reducing spending in the federal government. It all sounds very nice, but we're afraid Congress has gotten to the point at which it—like the federal government—feeds upon itself.

It will require more than halfhearted promises to "cut spending" or "balance the budget" or "eliminate waste." It will take the united determination of all Americans to demand that their representatives give them less government instead of more. And with a mandated balanced budget—not the promise of one—less government means less taxes.

The alternative to that course is increasingly higher rates of taxation on an already overburdened American lower middle and middle class. If that taxation reaches the point at which it is considered by many Americans to be intolerable, we shudder to imagine what the consequences might be.

EFFECTS OF TAR AND NICOTINE IN CANCER

Mr. HUDDLESTON. Mr. President, during the hearings earlier this year by the Health Subcommittee of the Labor and Public Welfare Committee on the National Health Research and Development Act introduced by Senators KENNEDY and HART, testimony was presented by Dr. R. H. Rigdon, formerly a profes-

sor of pathology at the University of Texas Medical Branch at Galveston. Inadvertently, Dr. Rigdon's statement was omitted from the hearing record.

His long experience and expertise in the field of pathology make his statement pertinent to the controversy about the effects of tars and nicotine in cigarette smoke.

I ask unanimous consent that the testimony of Dr. Rigdon be printed in the RECORD.

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

STATEMENT OF DR. R. H. RIGDON

I am R. H. Rigdon, recently retired Professor of Pathology at the University of Texas Medical Branch at Galveston. I received my degree in Medicine from Emory University in 1931. My postgraduate training was obtained at Duke University. In addition to the University of Texas, I have been on the medical staff of various universities, including Vanderbilt, Tennessee and Arkansas. I am certified by the American Board of Pathology.

I have read the bill recently introduced by Senators Hart and Kennedy entitled the "National Health Research and Development Act" and would like to offer my comments about the claim that "overwhelming scientific evidence exists that the harmful factors contained in cigarette smoke are tars and nicotine."

In 1969, and again in 1972, I presented to Congress my views on smoking and health. On both occasions I expressed the opinion that it had not been scientifically established that tobacco smoke is hazardous or harmful to human smokers. My opinion was based upon several observations, which can briefly be summarized as follows:

1. Health claims about the effects of tobacco smoke in man are based largely upon statistical associations without confirming scientific evidence.

2. There is a lack of persuasive experimental data referable to possible effects of cigarette smoke and its components. In my work with White Peking Ducks, I was unable to produce cancers in the respiratory tract with tobacco smoke condensate ("tar"). However, I was able to produce such cancers with other substances, such as methylcholanthrene, not found in tobacco smoke.

3. My experimental work with animals, and particularly my recent experiments with polyurethane, emphasize the wide variations that exist in the reactions of different animal species to the same agent. Therefore, while animal experimentation is a helpful tool for use in understanding the possible effects of various agents, results in animals cannot be automaticaly extrapolated to humans.

4. It has never been scientifically established that compounds, such as benzo(a)pyrene, as found in tobacco smoke are hazardous to human smokers. Nor has it ever been shown that the benzo(a)pyrene in charcoal broiled steaks and other common foods produce cancer in humans.

Since I expressed my views to Congress in 1972, I have not seen any medical data which would change my opinion that tobacco smoke has *not* been shown to be hazardous to human smokers. Nor has it ever been scientifically established that "tar" and nicotine produce disease in smokers.

In conclusion, it is my opinion that there is no scientific basis for the claim "overwhelming scientific evidence" has shown "tars" and "nicotine" to be "harmful" to smokers. I do support, however, studies referable to the pathogenesis of all cancers because such data are necessary to evaluate scientifically what role, if any, "tar" and nicotine might play in human cancer.

FISCAL YEAR 1977 DEFENSE BUDGET

Mr. GOLDWATER. Mr. President, in the defense appropriations bill for fiscal year 1977, as approved by the House-Senate conferees, a total of $25.6 billion is allocated for obligation authority for the Army. This is of course without military construction authority but it represents almost the full $26 billion requested by the Department of Defense. The Association of the U.S. Army finds that the funds will provide adequately for the Army's readiness requirements for the coming year. I ask unanimous consent to have printed in the RECORD the AUSA's analysis for the defense budget.

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

[AUSA Fact Sheet, Sept. 10, 1976]

FINAL ACTION ON THE FISCAL YEAR 1977 DEFENSE BUDGET

House-Senate conferees have completed action on the FY 77 Defense Appropriations bill that provides $104.6 billions for the fiscal year which begins October 1st. The funds approved are $2.2 billions below the Defense request.

For the Army, the completed action means approval of $25.6 billion out of a request for obligation authority (less Military Construction authority) of $26.0 billion. The funds approved for the Army will provide adequately for its readiness requirements for the coming year. Notably, Operations and Maintenance accounts were funded more fully this year than in past years.

AUSA's support for realistic funding of defense programs has been both consistent and persistent. This support has been reflected in:

1. Testimony before the Congress.
2. Responses to numerous Congressional requests for information and opinion.
3. AUSA Resolutions, which go to all members of Congress.
4. Position Papers and Fact Sheets, which go to opinion leaders in all walks of life.
5. Defense Report, the AUSA weekly column, which is distributed to over 750 newspapers.
6. Letters and other communications to DOD and AUSA members.
7. AUSA's coordinated actions on military issues with other national organizations and associations.

Here are some of the Congressional actions this year on significant defense issues, together with AUSA's efforts to educate the public on these issues.

1. COMMISSARIES

Issue: Administration efforts to make commissary system self-supporting.

AUSA View: Since 1974, AUSA has engaged in an extraordinary program to educate the public and congress on the need to retain commissary subsidies. Both the headquarters staff as well as members from the chapters in the field have contributed to the defeat of this unnecessary effort to reduce a fringe funding of commissary operations.

2. ENLISTMENT BONUS

Issue: To provide funding for increased enlistment incentives, particularly for combat arms skills.

AUSA View: Since the inception of the Volunteer Force in 1970, AUSA has continuously expressed the need for enlistment incentives, particularly in the combat arms skills, to attract the necessary quality and quantity of recruits.

Outcome: The Congress has approved full funding of the program at $24.7 million. It has also added $18.3 million in anticipation of a further request by DOD.

3. RECRUITING

Issue: To provide advertising funds of $37.4 million to reach the high school source of recruits.

AUSA View: AUSA has consistently urged funding of programs to reach and attract the highest quality recruits.

Outcome: Congress approved $33.0 million of the request but authorized $7.0 million for TDY pay to recruit unit canvassing aides who it felt were more effective. Funds for the aides were not in the original Army request.

4. PERMANENT CHANGE OF STATION (PCS) TRAVEL

Issue: Provide funding necessary to maintain normal rotatitonal policies.

AUSA View: AUSA has voiced continued concern with efforts which save some defense funds but which have a detrimental effect on soldier morale and career attractiveness and has supported full funding of programs which enhance Army service.

Outcome: In approving $638.0 million of $690 million request, the Congress has delayed Army efforts to return overseas tours from their current 39 month length in Europe and 13 month length in Korea, to the desired normal 36 months and 12 months, respectively.

5. JUNIOR ROTC

Issue: Increase in the number of JROTC units authorized.

AUSA View: AUSA in its resolutions has been calling for increases in the number of junior ROTC units nationwide as a means for exerting a positive influence toward all forms of military service.

Outcome: The total number of units has been increased from 1200 to 1600. Also permitted is the establishment of more than one unit at military institutes, which increased the choice of service units that may now be offered.

6. ONE PERCENT ADD-ON TO RETIRED PAY

Issue: Administration efforts to eliminate the one percent add-on to cost of living increases in military retired pay.

AUSA View: AUSA has voiced strong opposition to piecemeal actions that would reduce levels of military compensation directly or indirectly. AUSA has worked closely with agencies sharing its viewpoint to assure equitable solution of this issue.

Outcome: Congress approved elimination of add-on on military pay contingent upon the repeal of similar provisions for civilian government retirees. The Senate has approved elimination of the add-on; action by the House is still pending.

7. LUMP SUM TERMINAL LEAVE

Issue: To establish a common policy among officer and enlisted personnel that sets a 60-day maximum accrual of leave for reimbursement at full pay and allowances and encourage increased use of earned leave.

AUSA View: AUSA acknowledges the need to assure maximum effective use of limited dollars and to make maximum use of earned leave while supporting a 60-day career limit at full pay and allowances for all personnel.

Outcome: The 60-day career limit for leave accrual has been approved. Until 14 July 1976, accrued leave will be reimbursed under existing procedures; after 14 July, accrued leave will be paid at base pay rate only for all personnel.

8. ARMY'S "BIG FIVE" PROGRAMS

Issue: Funding of Research and Development efforts for the UTTAS, AAH, MICV, SAM-D, and XM-1 Tank.

AUSA View: These weapons programs are designed to provide the Army with the ability to face the challenges on the battlefield of tomorrow. These must be supported and funded fully if the Army is to achieve maximum success in the ground battle.

Outcome: Congress approved all funding as requested. NOTE: Funds for the XM–1 Tank were approved at levels requested ($141.0 million). However, Congress, while expressing confidence in the tank program's costs, technology and schedule approved to date, has reacted critically to recently announced program changes in the XM–1 aimed at NATO standardization which would add to costs and delay the program. Congress has called for its prior approval of any program funding changes.

9. LANCE NONNUCLEAR MISSILE

Issue: Approval of funding of 360 nonnuclear Lance missiles for NATO area.

AUSA View: The retention of the full spectrum of combat power on the conventional level necessitates the acquisition of this surface-to-surface missile system.

Outcome: The Lance non-nuclear program has experienced turn-arounds in the legislative process. Initially, the Senate refused to authorize the system because it cost more than air-delivered munitions; the House okayed the program. Recently the House refused to appropriate funds for the program because of questions about costs, rates of fire, vulnerability and possible degradation of its tactical nuclear capability (due to enemy counterfire measures) while the Senate approved funding when it rejected a floor amendment to eliminate the program. House-Senate conference committees backed both authorization and appropriation of the program.

10. OVERSEAS DEPENDENT EDUCATION

Issue: Approval of $248 million funding request.

AUSA View: Through its resolutions AUSA has urged federal government recognition of its responsibilities for quality primary and secondary education of dependents of federal military and civil personnel.

Outcome: Approval of only $242.8 million for the program will necessitate cutbacks in some services and programs. Most likely to be affected by the $5.2 million cut will be supplies and equipment and certain personnel positions.

11. ADMINISTRATIVE DUTY PAY FOR CERTAIN RESERVISTS

Issue: Administration attempts to eliminate compensation for extra administrative time beyond paid drill used by Reserve Component commanders.

AUSA View: This pay is already too small to compensate adequately for the considerable amount of work commanders must do on their own. Taking it away will be another blow against retention of top notch people.

Outcome: The amount of pay in question varies from $5.00 to $20.00 per month, with a total cost of the program at $2.107 million. Congress rejected the effort to end the program.

12. MILITARY LEAVE PAY FOR CIVILIAN FEDERAL EMPLOYEES

Issue: The Administration sought to save some $45 million by eliminating pay for federal employees on active duty for training with Reserve Components in excess of that needed to prevent pay loss as a result of such duty.

AUSA View: This proposal ignores the fact that financial incentive pay plays a key role in inducing many of these employees to join and remain in a Reserve Component unit. Approval of the proposal would frustrate Reserve Component ability to recruit and retain skilled personnel from the civil service employee group.

Outcome: Congress disapproved the move.

NRC CONSULTANT BLOWS THE WHISTLE

Mr. GRAVEL. Mr. President, one of the weakest links in a weak chain known as "nuclear powerplant safety" is a device known as the emergency core cooling system, ECCS, which is supposed to flood an overheated nuclear reactor to prevent catastrophic releases of deadly radioactive poison. The system, which stands between a nuclear disaster and the public, has yet to be tested on a large scale, although it failed six out of six laboratory tests in 1971. Failure in a real reactor could lead to hundreds of thousands of deaths and injuries, and contamination of huge areas of our Nation, according to numerous reports by nuclear power advocates as well as opponents.

In a memo to the Nuclear Regulatory Commission on May 6, 1976, Dr. Keith Miller said that nuclear powerplant licensing should be suspended because of ECCS deficiencies, and that the NRC's Rasmussen Report on reactor safety was a "disgrace." Nuclear proponents cite Rasmussen as proof that their reactors are safe, but the report was hopelessly flawed from the beginning, according to many experts in the risk assessment and nuclear fields.

Dr. Miller is an expert on computer codes—the basis on which the untested ECCS is pronounced "safe" by the NRC—and professor of mathematics at the University of California at Berkeley. He wrote his memo as a consultant to the NRC itself. Mr. President, we all owe a debt of gratitude when nuclear experts "break ranks" and risk their livelihood and reputation to tell us what the nuclear establishment does not.

I ask unanimous consent that the entire text of Dr. Miller's memo be printed in the RECORD.

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

UNIVERSTY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., May 7, 1976.

STAN FABIC,
Nuclear Regulatory Commision/RES,
Washington, D.C.

DEAR STAN: At one piont in the discussions winding up our January 27 meeting, in which I and others of the Advanced Code Review Group expressed some of our reservations, you asked me directly, "Then you think we shouldn't be licensing these reactors?" I demurred and said that I didn't know. Since then I have done a great deal of investigation. I have come to the firm conviction that NRC is not justified, on the basis of our present scientific understanding, in continued licensing of PWR reactors with ECCS of the present design.

I have reached this conviction by way of the following conclusions. These conclusions are based upon, first, my professional judgment as a scientist and numerical analyst experienced in large scale computer applications; second, my intensive year and a half experience with the Advanced Code Review Group; third, the very excellent analyses by the American Physical Society study group (APS), the Environmental Protection Agency (EPA), and F. Finlayson of the Environmental Quality Laboratory (EQL) of Cal Tech; and fourth, an ongoing informal canvas of many experts in the ECCS field and the numerical computation field; I hesitate to paraphrase any of them individually but I would be glad to put you in contact with them.

(1) The present design contains the basic flaw that the coolant water is injected into the cold leg rather than directly onto the core. We are thus stuck with ECC bypass (the coolant in trying to penetrate past the escaping steam in the downcomer is swept out the break with the steam), with a dangerously long delay before the coolant makes any contact at all with the core, and with only the 8 psi pressure gravity head of the coolant in the downcomer (rather than its initial 600 psi in the accumulator) to force reflooding against steambinding backpressures.

(2) There are types of loss of coolant accidents for which it is extremely likely that the present ECCS will fail, that is, a large cold leg break in which the steambinding during the reflood period is exacerbated by leakage of a few corroded steam tubes. See EQL 3–24 and APS S85.

(3) From the beginning I have been aware of the feeling within the code development community of the inadequacy of present codes to deal with LOCA phenomenae. I should add that there is quite a lot of respect for the developers of these codes; it is not so much the inadequacy of the codes as the vast complexity of the two-phase thermal-hydraulic processes involved. The internal inconsistency of these codes, between NRC and different vendors, between different nodings with the same code, etc., is well documented, see EPA 63–74. Their generally poor performance on predicting the results of standard problem experiments is also well known, see APS S93.

(4) There are some within industry and NRC who accept the official NRC posture that the codes used for licensing and evaluation purposes are definitely conservative, that is, that the simplifying assumptions which they must make always lead to errors which are on the safe or conservative side. In fact, there are some who feel that this is definitely the case, that NRC is being highly overcautious, thereby causing the industry to be uneconomic, that these billion dollars plants could safely be allowed to run at higher temperatures, and that the primary purpose of developing advanced codes is to eliminate some of these uneconomic conservatisms. However, I feel that this absolute certitude of conservatism goes unshared by many within NRC and within our own group. I know that it is certainly not shared by me, nor is it shared by the many distinguished scientists of outside review group, including those on the EPS study and the EPA review. I should also mention some disquieting recent results that best estimate codes (supposedly more realistic) can lead to higher predicted maximum cladding temperatures than corresponding evaluation model codes (supposedly more conservative).

(5) Even with the superior advanced codes being developed, and the allied experimental program, I see the possibility of getting several years down the road and still not being able to predict significant aspects of ECCS performance with a satisfying degree of confidence. The APS study warns repeatedly of this possibility. Preliminary analysis just seems to indicate that the present ECCS is too marginal to allow for much leeway for error in the analysis. In particular, there are two critical aspects of the thermal-hydraulics of a cold leg break LOCA which, in my professional judgment, are beyond our ability to compute. The first is the penetration (or not) of coolant water in the downcomer against the violent cavitating flow of escaping steam and water during the final seconds of the blowdown period. The second is the degree of water droplet entrainment and wetness of the steam as it escapes out the hot leg during the reflood period. Yet it is this subtle effect, creating a small steam binding backpressure as the droplets vaporize upon hitting the hot steam tubes of the steam generator, which seemingly will spell the difference between a satisfactory and a disastrous reflooding rate. LOFT will give valuable data on the pentration problem, but at 1/60 volume scale, which may or may not scale up well through our computer codes to full size. The PFE will of course give penetration

data at more nearly full scale. Since LOFT does not attempt to model a steam generator or the water droplet entrainment characteristics of the upper plenum, and since the FLECHT data is already hopelessly embroiled in controversy, we have little hope through current experimental programs of experimentally resolving the entrainment and steam binding problem.

(6) In short, analyzing our way past the difficulties of the present PWR ECCS design, to the satisfaction of reasonable men, seems extremely elusive. I therefore urge NRC, as quickly as possible, to get on with the business of testing and requiring a safe alternate ECCS design. I understand that the PWR industry has prepared much of the groundwork for alternate designs, for which they are to be congratulated, and that upper plenum injection is included (as an option) in their latest contracts and licensing applications. I get the impression from contacts that NRC is still far behind in this field; I would hate to see them react too slowly or too precipitously; there is undoubtedly much testing and analysis that needs to be done and there are undoubtedly pitfalls that need to be avoided.

I would urge on the NRC the statesmanlike suggestions of F. Finlayson, EQL, pages 4–16 and 4–17 regarding the advantages of ECCS redesign.

(7) BWR's suffer from a dangerously long time to begin refloodng of the fuel elements. As Finlayson points out, "Simplistically speaking, for BWR's increasing reflooding pumping capacity appears to be a satisfactory method of resolving the problem".

Now for some conclusions of a more general nature.—

(8) It seems to me that the extraordinary degree to which NRC and the nuclear industry place reliance on computer simulation of complex phenomenae is one of the weakest links in nuclear reactor safety. This criticism is repeated again and again in the APS study and it appears as the first and second criticisms among the General Observations in the EPA review of the Rasmussen report. This dependence on computer simulation is unparalleled in the field of engineering and public safety. Consider the aircraft industry—despite the much simpler more well understood and more reproducible physical processes, the vast experimental capabilities of wind tunnels, etc., the long history of fruitful interaction between experimentation and computation, my colleagues in aoredynamical computation at Berkeley, and NASA Ames each assures me that he would never agree to test fly an aircraft designed solely on the basis of these calculations. Nevertheless, the nuclear industry, with its capability of vastly greater catastrophe, sometimes seems willing to design by computers and ask the general public (at least those downwind from the first 100 nuclear reactors) to "Come fly with me".

I once again refer to the very wise suggestions of F. Finlayson, this time on the hazards of very elaborate calculations of complex situations on the advantages of large or full scale testing, EQL 3–34–3–36.

(9) I do not think that the upper levels of NRC have been entirely open with the public in these ECCS matters. I see a wide divergence between the public posture of NRC regarding reactor safety (one of almost absolute certitude) and the opinions of many individuals within NRC, its contractors, consultants, and outside scientific reviewers.

The most disturbing example of this posture is the NRC's recent Rasmussen report on reactor safety. The zeal of the authors is overwhelming. It is somewhat disquieting to discover that "WASH–1400 assumes, based on vendor calculations as approved by AEC-Regulatory (now the NRC), that adequate core cooling is provided for all small break accidents (if emergency core cooling systems operate as designed)". See EPA, p. 11 to paraphrase—if the plumbing turns on as designed, pumps, valves, etc., then ECC succeeds. In other words, WASH–1400 assumes 100% infallibility for the predictions of the vendor codes, an assumption which the EPA review proceeds to tear to shreds. One wonders how many times in the course of this voluminous study a similar blithe assumption of infallibility for some computer code has been made, and one wonders about the accumulative effect of such assumption upon the outcome.

Because of my concern I have decided to address a formal memorandum to the Commissoners of the NRC recommending a first, initiation of full public hearings to investigate the above areas and second, suspension of licensing of new plants until the ECCS question is resolved. This memorandum is enclosed, and I would appreciate your taking the responsibility of forwarding it quickly to the Commissioners, together with copies of this letter, the enclosed April 12 packet from me to my colleagues on the group (including my March 25 letter to Zuber and some pages from the APS report), and selected pages enclosed from the EPA and EQL reports.

I am sending copies of the memorandum and this letter to my colleagues on the Advanced Code Review Group in order that we can discuss them at our May 13–14 meeting. I would appreciate your making available to them copies of the EPA and EQL selections.

There are several reasons that I have decided to proceed by a formal memorandum rather than by discussions through our group. First, I find that ideas and urgings and experimental results on the desireability of ECCS redesign have been around the NRC for a long time. The APS report, and its distinguished committee, delivered what seems to me to be a devastating technical criticism on the present ECCS research effort and the strongest possible urging for a revised course of action. Yet because it was couched in polite technical language with no urgent call for action, its recommendations have been largely ignored. I find that some members of the APS panel are now quite disappointed that the panel let themselves be talked into adding softening language to the summary and conclusions. I wish to leave no doubt.

Second, I am surrounded here by the noise and the fury of the nuclear debate and am appalled at the level of misunderstanding on nuclear safety which is being spread. It is hard to stand idly by while being told in the press or media by noted and supposedly knowledgeable scientists, and straight from the executive summary of NRC's own prestigious Reactor Safety Study, WASH–1400, that I am more likely to be killed by a falling meteor than by a nuclear accident. It is evident to me that those within the NRC concerned with the realities of nuclear safety research have not been speaking up forcefully enough within the organization. It would be a pity if a study begun to help pinpoint the areas of greatest safety research need should turn out to result in complacency and the denial of system improvements which are vitally needed. I think that WASH–1400 will come to be viewed as a severe blow to the scientific credibility of the NRC. There exist already devastating criticisms of its methodology, conclusions, and misleading summary—couched now in polite technical jargon, but sure to be picked up and translated into more accessible language.

I plan to speak out openly on these issues when given the chance, and I hope that my colleagues on the group will do the same. The possibility of great strain on our collegial relations is a matter of great concern and regret to me, but I hope to continue my work with the group in the interests of a safer nuclear industry.

Sincerely yours,

KEITH MILLER,
Consultant, Advanced Code Review Group, Professor of Mathematics.

MEMORANDUM TO THE COMMISSIONERS RELATING TO THE LICENSING OF COMMERCIAL POWERPLANTS IN THE U.S.A.

(Prepared by Keith Miller)

The U.S. nuclear power program continues to face a major unresolved safety problem—the lack of an assured means of preventing a pipe rupture in a reactor's primary coolant system from developing into a catastrophic release of radiation. In my work as a consultant to the Advanced Code Review Group, I have come to several conclusions. For supporting details on these conclusions, please see 1–9 in my attached letter to Stan Fabic.

The present design of PWR emergency core coolant systems has basic flaws which promise to make its operation only marginally effective, if effective at all. Moreover, there are types of loss of coolant accidents (involving leakage of a few corroded steam tubes), for which it is extremely likely that the ECCS of present design will fail.

It seems likely that the present program of computational and experimental research will not allow us to analyze our way past the difficulties of the present ECCS design, to the satisfaction of reasonable scientists, in the foreseeable future. The present codes, which are demonstrably inadequate, predict only a small margin of safety for the present design. There is little reason to have much confidence that the presumed "conservatism" of these codes has overwhelmed the probable errors caused by our inability to accurately formulate and compute the fantastically complex two phase thermal hydraulic processes in a loss of coolant accident. The same applies to advanced codes (which won't be ready for 2 or 3 years) if used as extrapolatory devices from small scale experiments rather than as interpolatory devices from full or nearly full scale experiments. The Loss of Fluid Test (LOFT) experiments should resolve questions in certain critical areas, but not in other critical areas of greater subtlety (such as droplet entrainment and steam binding).

There are alternate ECCS designs (upper head injection, upper plenum spray) proposed for PWRs which show promise of bypassing some of the difficulties of the present design. I urge the NRC, as quickly as possible, to get on with the business of thoroughly testing and requiring a demonstrably safe alternate ECCS design.

It appears probable that the dangerously long reflooding time for BWRs could be corrected by increasing pumping capacity.

The extraordinary degree to which the NRC and the nuclear industry depend upon computer simulation of complex phenomenae, as opposed to the full scale product testing of the aircraft and other industries, is one of the weakest links in nuclear reactor safety. One tends to forget that one's computerized collective vision of reality calibrated only against model tests at small scale, could be very very far off from actual full scale reality, and yet we would never know it.

What does it take to develop some humility about computations within the nuclear industry? On the basis of computations it was never suspected, until the Semiscale tests, that the coolant water would be flushed out with the escaping steam. The seriousness of the ECCS steam binding problem was still never suspected, long after the systems were designed and installed—until the FLECHT tests. The existence of the torus jump problem was never suspected—until

GE built and tested the 1/3 scale suppression torus mockup.

I think that the ECCS controversy above has important lessons for us concerning excessive reliance on computer computations. Problems with the ECCS have been known for many years (at least internally). The AEC (and now the NRC) has maintained a public posture of almost absolute certitude on the question of ECCS effectiveness, apparently based on the assumption that the codes are conservative in all respects (a review subject to widespread skepticism both within and without the NRC) and that their continuing research would resolve the problem in a timely way. Instead the lurking difficulties of ECCS analysis have become more and more apparent and the supposed margin of safety for the present design has shrunk ever narrower.

Meanwhile, dozens of these reactors have been built and put into operation, and in all of them the first and major line of defense against a rupture in the primary coolant system is the present marginal ECCS design. Perhaps this design will work very well; perhaps it will work far better than our present primitive analysis predicts. That's not the point; the point is that we have no assurance that it will work, other than 10 years of industry optimism, the results from some very small scale systems experiments (1/1000 volume scale), some moderate scale separate effects tests, and the scale up from these experiments by computer codes which have never in any way, shape or form been verified against full scale reality because there have not been any experiments at large or full scale. This is risky business in a complex hydraulic or thermal hydraulic situation.

I would like to point out that, when an ECCS system first becomes needed, tens of thousands of human lives and the preservation of large areas from long-term radioactive contamination may depend upon the adequacy of its functioning. Scenarios of nuclear disaster in the popular press dwell on failures of hardware and plumbing; to quote a few lines from the scenario presented by Professor Rasmussen to Newsweek, April 12, 1976: "against odds of more than 1 billion to 1—all other safety systems fail to function" and "then they discover yet another billion-to-1 accident: the power system for the pumps that deliver emergency water has been knocked out." In order that catastrophe ensue, such highly improbable equipment failures are of course not really necessary; all that is really necessary is that the computerized analysis of the ECCS sequence turn out to have been inadequate (an eventuality which in my opinion is far, far more probable.)

I propose the following considerations towards a policy concerning reliance on computer computations in complex situation:

(i) That we should at least hope to expect that NRC will require a system whose scale up by computer codes from much smaller scale experiments indicates a very wide margin of safety, enough to overwhelm all aspects of our ignorance. (I don't think a reasonable scientist can say that this is the case with the present ECCS design).

(ii) If that margin is not predicted for the present design, we should quickly attempt alternate designs. There should be no ongoing optimism that, although our ignorance is great, there is probably some large (but unquantifiable) conservative effect built into the code which makes it always err on the safe side. It would be best to remove decisions on public safety from being decided by a computerized debate between the optimists and the pessimists within a federal agency.

(iii) Otherwise, the industry and NRC should rely on full or nearly full scale product testing. Here I have to agree with Fred Finlayson, EQL report No. 9, May 1976, p. 3-36:

"Though large or full scale testing is expensive, there is ample precedent for it. In fact, nearly all recent large complex systems where survivability has been important, from ballistic missiles to jet airliners, have been tested extensively in full scale (and frequently to destruction) to demonstrate their overall design conservatism. On the basis of such precedents, large scale tests, though admittedly expensive, would certainly appear to be cost effective for the nuclear power industry. It has been estimated that in the next 30 years more than 500 nuclear power plants, of approximately 1000 MWe capacity each, will be in operation. To argue over the practicability of ECCS testing for a large scale nuclear system on the basis of expense under these circumstances seems absurd.

"If, on the other hand, the principal drawback to large or full scale testing is associated with the hazards of the experiment, then the argument becomes unsettling.

"Testing at a larger scale than LOFT seems practical, desirable, and urgently needed."

I feel that there may be severe deficiencies in the methodology and conclusions of the NRC's influential and often quoted study on reactor safety, WASH-1400, because of its assumptions regarding the reliability of predictions derived from computational codes. It is very disquieting for anyone concerned with code development to find that the study has in effect assumed 100% reliability of the vendor code predictions on small scale breaks; the total improbability of such an assumption could have been checked with almost anyone involved in large scale code development. The pervasiveness of such assumptions in the rest of the study, and their effect on its conclusions, should be carefully investigated. How NRC could have created a document so patently divorced from the healthy scientific skepticism of many of its own scientists, so zealous in its claims, so misleading in its summary, is beyond my understanding. I believe that WASH-1400 will come to be viewed as a severe blow to the scientific credibility of the NRC.

I formally recommend to the Commission:

1. Initiation of full public hearings to investigate the following areas:

(a) the adequacy of present ECCS systems, both PWR and BWR.

(b) the possible advantages and/or disadvantages of proposed ECCS redesigns (such as upper head injection for PWRs and increased pumping rates for BWRs) based upon our best present knowledge.

(c) the heavy reliance of the nuclear industry upon large scale calculations in complex situations, as opposed to a more balanced program of full or nearly full scale testing combined with computations, with a special comparison between our situation and that of the aircraft industry.

Outside intervenors should be invited to participate for the purpose of testimony and cross examination, as in the Bethesda hearings.

2. Because of the danger to public safety of inadequate ECCS designs, licensing of new nuclear plants should be suspended until such time as the investigations (1a) and (1b) are resolved. If it is determined in (1b) that an ECCS redesign is indicated, then additional public hearings should be held before final licensing of the redesign.

TRIBUTE TO BOB McCORMICK

Mr. HUGH SCOTT. Mr. President, I can think of no newsman with whom it has been more truly a joy to work than Bob McCormick. So it was with personal sadness that I learned Bob has announced his retirement from NBC News after two decades of covering Capitol Hill.

His fairness as a newsman, his astute knowledge of politics, his ready ear as a listener—most especially his good counsel as a friend and his easy laughter—all these are qualities of Bob McCormick.

I shall not forget our many, many conversations over the years. I regret that not only I, but also Bob's many other friends on Capitol Hill, will miss the opportunities we have had to work with so fine an individual over the years.

Bob is a good man—a gentle man—and I am proud to call him a friend.

Thank you, Bob, for your many kindnesses. I shall always remember them. May the Lord walk with you every day of your life and bring you every happiness.

NO AMERICAN BOYCOTT

Mr. RIBICOFF. Mr. President, last week the Congress made it clear that the widespread participation of Americans in the discrimination and exclusion of the Arab boycott of the United States and Israel and will no longer be tolerated. We passed a major tax bill which contained the first strong antiboycott provision passed by both Houses of Congress in 10 years. The importance of our actions cannot be underestimated, for now Americans will have a strong economic incentive not to allow other countries to tell them who they can hire, what companies they can do business with, and which countries they can trade with. For the first time, legislation with teeth has been passed to protect the rights of the 1,500 American companies who have been the target of the boycott's capricious, arbitrary, and racist discrimination. And in a larger sense, the antiboycott provision voted by such an overwhelming margin last week reaffirms American standards and our system of free trade.

Lately, there has been a great deal of debate about the antiboycott legislation, Arab-American relations and the realities of the boycott. Yesterday, the Washington Post discussed many of these issues in a thoughtful and thought-provoking editorial entitled "No American Boycott." That editorial pointed out and I think rightly, that the ties between Arabs and Americans go far beyond the issue of the boycott, and, as the relationship between our nations broadens and deepens, divisive trade barriers like the boycott will not serve the best interests of Arabs or Americans. By maintaining our traditional standards and by clarifying them for our companies and other nations, the important relationships between Arabs and Americans can proceed on the basis of mutual respect, instead of coercion and intimidation.

Mr. President, I ask unanimous consent that "No American Boycott," from the Washington Post, September 20, be printed in the RECORD.

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

NO AMERICAN BOYCOTT

The Arabs' decision to establish an Arab boycott of Israel is their business. But their attempt to establish an American boycott of Israel is something very different. It runs against American interests, American values and the American grain. That is the elementary distinction made by the Congress in writing anti-secondary-boycott provisions

into the tax reform bill. Whether a tax bill should be the vehicle for a measure related to foreign policy is an interesting question for the lawyers. The rest of us can take satisfaction that legislative teeth are being put into the diplomatic jawbone wielded quietly by the administration in the last few years. It is precisely in those last few years, of course, that the Arabs' practice of a secondary boycott, one directed at American firms that trade with Israel or that have Jewish or "Zionist" officers, has spread to encompass business deals measured in the hundreds of millions of dollars. Seldom has the inadequacy of diplomacy and the necessity for legislation been so overwhelmingly demonstated.

Opponents of the new legislation argue, in effect, that Arab nations are so determined to compel Americans to support their boycott of Israel that, if flouted, they will take their billions in business elsewhere and perhaps even diminish the flow of their oil. No one would be surprised if some Arab-American deals are junked in conspicuous and symbolic protest. But it is demonstrably false that gaining American support of their boycott is so important to the Arabs that, to that end, they will jeopardize the thick economic and political ties they have built up so carefully with the United States in recent years. Arabs are spending billions on arms produced by the very manufacturers who sell to Israel, for instance. They are doing so presumably because they see more advantage to themselves in ignoring the boycott than in enforcing it. In the past, American companies had little incentive to help bring the Arabs to this sensible view of their own self-interest. Now the American companies have an incentive. Now, too, an American company declining to participate in the Arab boycott will not face the same risk of paying a financial penalty for honoring the United States' longstanding anti-secondary-boycott policy.

One needs to step back a pace. We think it entirely healthy and useful that the boycott issue has come to the fore. It goes to the basic framework in which the United States and the Arab world are trying to expand and deepen a relationship that has been, until realtively recently, narrow and formal and sometimes even antagonistic. That there is potential for great mutual advantage in the relationship is evident to everyone. That is all the more reason to try to move it forward on the basis of mutual respect. It makes no more sense for Arabs to demand that Americans now boycott Israel than for Americans to demand that Arabs now trade with Israel. We would not contend that, for all Arabs, it is easy to accept the ways of the open international system they are trying to join. Arab states have made impressive progress, however, in halting discrimination against American (or other foreign) firms and individuals on strictly religious or ethnic grounds. The administration's diplomacy, by the way, has been quite effective in this regard. It will be harder for Arabs to accept that they cannot force Americans to discriminate in trade against a third country. But it denigrates their intelligence, and it underestimates their general passion for modernization, to say that they must stick fast in their traditional ways. Certainly Americans should not be encouraging them to do so.

SENATOR BROCK COMMENDED FOR WORK TO IMPROVE FEDERAL PROCUREMENT

Mr. FANNIN. Mr. President, I am pleased to cosponsor Senate Joint Resolution 148, introduced by Senator BROCK, to clarify and reaffirm the Federal Government's purchasing policies. This important resolution reaffirms the policy of primary reliance upon the private sector for goods and services required to meet the needs of government.

Although the Senate has taken no action on this excellent resolution, I have received numerous letters from constituents of mine indicating popular sentiment in favor of the principle of reliance of free enterprise to fulfill our national needs. Moreover, I am confident that the administration supports this view. The President has expressed keen interest in pursuing executive action along this line. In addition, the General Accouting Office has recommended that a more realistic formula for calculating the actual cost of in-house work be used in making Government procurement decisions.

In this regard, Mr. President, I congratulate Senator BROCK for the excellent work that he has done to bring this important matter to national attention. As we know, private business has traditionally been the primary source of goods, services, and jobs to all sectors of our national economy, including the needs of our national Government. Unfortunately this role has been jeopardized as Governmental reliance on the private sector has been reduced. As a result, the Government obtains more and more of its goods and services without the benefits of competition. In the process the taxpayers are paying more for Government-supplied goods and services than necessary. At the same time, the private sector is losing a significant volume of business which it needs to expand its plant and facilities and increase employment. Finally, the shift to in-house procurement by the Government has resulted in a gradual erosion of the technological capabilities of private industry, particularly in the area of research and development. This, in turn, affects our Nation's ability to compete in foreign markets.

Mr. President, certainly we should reaffirm our long-standing policy of relying on the private sector for essential goods and services. Senator BROCK has perceived the importance of the matter and has made it a matter of high priority. I agree completely with his statement that—

It is an important issue that can be effectively used to make our government procurement activities more efficient and more responsive to lower cost surpluses available in the private sector.

Mr. President, I commend the distinguished Senator from Tennessee for his excellent judgment and his leadership in this and in other efforts to improve the efficiency and lower the costs of Government.

THE FRAGILITY OF FREEDOM

Mr. GOLDWATER. Mr. President, on December 11, 1975, nearly a year ago, the distinguished economist of the University of Chicago, Dr. Milton Friedman, made a speech at Brigham Young University in Utah that if it has not been read by every Member of Congress it should be. He puts the situation of the United States in about as plain English as it can be put, and it cites examples around this world to back up his arguments that the United States is headed for trouble that it probably cannot get out of. I ask unanimous consent that this speech be printed in the RECORD.

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

THE FRAGILITY OF FREEDOM

(By Milton Friedman)

Thank you very much. It is a special pleasure for me to be introduced to you here today by Dallin Oaks, who was not only a colleague at the University of Chicago, but a tower of strength in our times of trouble during the late 1960's when many universities in this country were subjected to disturbances and disruptions. The University of Chicago handled them particularly well, and one of the main reasons we were able to do so was because of the willingness of Dallin Oaks to serve as chairman of a committee which played a very important role in those events. We regret very much losing him, but our loss has been your gain.

Dallin Oaks referred to the Bicentennial. I trust you know that 1976 is a double Bicentennial. It is a Bicentennial of the publication of "The Wealth of Nations," that great book by Adam Smith which is a Bible of economic freedom and is closely related to political freedom. And, indeed, almost everything I am going to say today could be found in one form or another in that book.

Those of us who have been fortunate enough to be born in the United States in the twentieth century naturally take freedom for granted. It seems to us that a relatively free society is the natural state of mankind. But that is a great misconception. Freedom is very far from being the natural state of mankind. On the contrary, it is an extraordinarily unusual situation.

If you look back through history, in any place on the globe, you will find that the natural state of mankind in most periods in history has been tyranny and misery. If you look over the globe geographically at any point in time, you will find that most of the people in the world at that point of time were living in a state of tyranny and misery. The periods and places in which there has been something approaching a free society have been few and far between. There was a small example in the fifth century, B.C., on the Peloponnesian Pennisula in Athens, but that was only a partly free society. It was a society that was free for the citizens of Athens, but not for the slaves who also inhabited the city. There is a brief spurt of freedom during the Renaissance in the Middle Ages. The most extended period of freedom has been the period in the eighteenth and nineteenth and early twentieth centuries in Western Europe and the United States. Yet, look at how fragile that freedom has been. The countries in the world that have been able to maintain during that period something roughly approaching a free society are few in number. They consist almost entirely of the English speaking countries and the Scandinavian countries.

This fragility of freedom was brought home to me dramatically last April when I spent a week in the small country of Chile in South America. I was in Chile for a week as part of a group that was examining and considering the economic problems which Chile was then facing—problems which you and I have in our future (I hope in a very distant future). Problems which were epitomized by the fact that they had managed after great effort to bring the rate of inflation down from 900 percent a year to 400 percent a year. But I don't want to talk about Chile's economic problems; I want to talk about the problems of freedom.

Chile, of course, is a very different country than the United States, and a very much poorer country than the United States. Yet the history of Chile is highly relevant to our present situation and our future problems. Of all the South American countries, Chile had about the longest history of a reasonable degree of democratic government and a

reasonably free society. That history dates back to the nineteenth century.

The origin of the present problems in Chile, which has lost freedom and which today is governed by an authoritartian regime, in my opinion, go back some 50 or 60 years. Chile was not only one of the countries in South America that had the longest history of freedom and political democracy, but it was also one of the earliest countries in South America to institute a welfare state and welfare state measures. I was surprised to find in reading about Chile that, like Great Britain, the class of measures that we today associate with Welfare Statism, the New Deal, and the Fair Deal, got their start in Chile about 1906, 1907 or 1908, at about the same time that these processes started in Great Britain.

The present state of Chile, in my opinion, is the end result of an expansion in the role of government over the lives of people. The important thing about that development and the main lesson I am going to try to elaborate on in this talk, is that the measure that led to that result were done by good people for good objectives. The measures that led to Chile's problems were not bad measures that were taken by bad people with the aim of grinding the poor under their heels. On the contrary, the problems of Chile derived from the attempt to use the State and the political mechanism to achieve good objectives. That development led to an increasing expansion in the role of the State in the society. It led to an increasing accumulation of legislation in which the government controlled what people could do. The obvious numerical counterpart of this was an increase in government spending until, by the time Mr. Allende came to power in Chile, government spending had reached something like 40 percent of the national income.

Since Chile was a poor country, it was difficult to impose explicit taxes to generate revenues of 40 percent of national income. As a result, taxes were imposed indirectly in the form of inflation. There is a great misconception about what happened. Mr. Allende, who produced the great confrontation and was clearly seeking to turn Chile into a communist dictatorship, was only carrying out the laws that had already been enacted by his predecessors. He introduced very little that was different. He just continued in the same direction that policy had been proceeding, ever more rapidly, during the past 30 or 40 years. However, the end result was the tipping point at which the willingness of the public to put up with increasing involvement in their own lives was exceeded. There was first, the Allende regime with its threat of a left-wing dictatorship, and then a counter-revolution with military taking over and a military junta being established, which also is very far indeed from a free society. It, too, is an authoritarian society which denies the liberties and freedoms of the people in the sense in which you and I conceive of them.

Lest you think that this tale of the history of Chile need not concern us, let me ask you to consider a case much closer. Cast your eyes across the Atlantic to the home of most of the ideas of freedom that we cherish—to the United Kingdom. The United Kingdom is a much richer country than Chile. It has a far stronger tradition of a belief in freedom and in democratic rights. Yet, the United Kingdom is going down the same path as Chile and I fear is headed for the same end. It is almost impossible for any one of us who was brought up in the great traditions emanating from Great Britain—the great tradition of freedom and democratic rights starting with the Magna Carta and coming down through the whole list of famous Englishmen who have written and taught us about free institutions—it is almost impossible for anyone brought up in that tradition to utter the words that Britain is in danger of losing freedom and democracy, and yet it is a fact! I was in Britain a little over a year ago. It was precisely because I had spent some time in Britain and had seen what was happening there that I was so much reminded in Chile this spring that I was seeing the same scene over again. It was like a continuous movie and this was where I came in. Or maybe I should say this was where I went out. What has been happening in Great Britain?

About the same time as Chile, Great Britain started on the welfare state line. In 1913, a great English constitutional lawyer, A. V. Dicey, revised and published a series of lectures he had given in this country under the title, "Relation Between Law and Public Opinion in the Nineteenth Century." In its preface, referring to the measures that Britain had already taken by 1913, particularly in the area of old age benefits and of the treatment of people in institutions, he said, "This is a road on which no reasonable man can refuse to enter, but once entered nobody can tell where it is going to lead." That was an extraordinarily prescient prediction of what was in store for Great Britain because the role of the government has, from that point to this, expanded until today (again by that simple numerical measure that I used) total government spending in Great Britain (central and local) amounts to 60 percent of the national income. And yet, there is enormous pressure for still more government spending. Nobody is satisfied; everybody is dissatisfied. Society is being polarized. It is hard to see how Britain can avoid the fate that Chile experienced. Lest I seem alarmist, I can quote (I was amazed to hear it I must confess), from one of our modern oracles, Eric Sevareid, who in one of his little pieces of wisdom over the network after a visit to Britain, made exactly this analogy and said Britain is on the verge of the Allende period of Chile. And so it is. I fear very much that within the next five years the odds are at least 50–50 that British freedom and democracy as we have seen it will be destroyed.

But again, I need not go that far away. Let me come closer to home. Consider at the moment New York City. New York City displays precisely the same trends as Chile and the United Kingdom. New York City has the dubious distinction of having the most welfare state oriented electorate in the country. New York City has been following the same policy of ever-growing governmental involvement in the affairs of its citizens and the result has been exactly the same. Wherever this path has been followed, whether in Chile or in the United Kingdom or in New York, it has two consequences. The first is financial crisis. Certainly that characterized the situation in Chile. Certainly that characterizes the situation in the United Kingdom where the rate of inflation has reached something over 25 percent; where the government budget is enormously in deficit; where Britain is able to survive primarily by borrowing from overseas. Similarly in New York, the first effect—financial crisis—is obvious.

The second effect is less obvious. This path leads not only to financial crisis, but also to a loss of liberty and freedom; and New York City has lost its liberty and freedom. New York City is no longer being governed by the citizens of New York City or by people elected by the citizens of New York City. It is now being governed by a committee of overseers appointed by the State of New York with power to overrule the elected officials of the City of New York. This loss of self-government and freedom has been concealed by the shift of power from one democratic institution, the City of New York, to another democratic institution, the State of New York. But the principle is the same: financial crisis leads to a loss of self-government. There is only one important difference between New York City on the one hand and Chile or the United Kingdom on the other and that is that New York City does not have one of those printing presses on which you can turn out green pieces of paper that people call money. It cannot issue its own money. Chile and Britain could issue their own money and, therefore, the financial crisis took form of inflation; whereas, in New York it degenerated more promptly to bankruptcy.

Let me come still closer to home. Consider the United States in general and Brigham Young University in particular. The United States has been following the same path. Again, to use a simple index which I have been using, for the period from the founding of this country to 1929, leaving aside periods of major wars such as the Civil War and the first World War and the Revolution, total government spending in the United States (federal, state and local), never exceeded 10 percent of the income of the people. State an local expenditure more immediately subject to the control of the citizenry was twice as large during that period as federal government expenditures. Total federal government expenditure in 1929 was 3 percent of the national income. In the 45 years since, total governmental expenditures have risen to 40 percent of the national income in the United States and federal government spending is twice as much as state and local spending. Federal spending today is something like 25 percent of the national income, or roughly 10 times as large as it was in 1929. We have been moving in the same direction as Chile and Britain and New York, and we have been experiencing signs of financial crisis—the emergence of inflation at a higher and higher rate. We have also been experiencing the second effect: the loss of freedom.

People always talk as if the problem is in the future; as if the problem is that individual freedom is threatened by the encroachment control of our lives by the State. It is not merely the future, it is the present! Freedom has been greatly reduced in many dimensions. After all, the spending of 40 percent of our income for us by government is a restriction on our freedom. We have nothing to say about 40 percent except through the political process which is that I am going to come to in a moment. But put aside the question of income. Go to those more fundamental freedoms of speech, of belief, of personal behavior. They, too, have been severely restricted. Consider for a moment the simple question of freedom of speech. Let me ask you how often you read in the papers any statement on public issues by a major businessman or industrialist except where it immediately concerns his own enterprise.

A little over a year ago, President Ford constructed a program, hastily buried shortly thereafter, called the WIN Program for Whip Inflation Now. Now it was a program that had some good things and some bad things, but taken as a whole it was a pretty silly program. You will research every newspaper in this country without finding a single major businessman who made a public statement against that program. Why? Was it because they agreed with it? It is inconceivable. At least it is inconceivable that they unanimously agreed with it. Surely there was some businessman who didn't.

However, if you were a businessman at the head of a great corporation you would think three times before you spoke out on a major public issue. You would look over your left shoulder and see the IRS getting ready to come and audit your accounts and you would look over your right shoulder and see the Department of Justice standing only too ready to launch an anti-trust suit against you. And then, if you have more shoulders than two, you would ask what is the FTC going to do about my advertising; and what

is the FDA going to do about the products I produce; and what is the Safety Council going to do about this, that and the other thing? You are not free to speak if you are in that position.

Let me get closer to home. Let me get to my own area and your area—the academy. Is the scholar free to speak? I ask myself whether the professors who teach medicine at any medical school in this country, most of whose research is being financed by the National Institutes of Health, whether they really feel free to speak out against socialized medicine and against further involvement of the government in medicine. Some of them obviously will. But is there the slightest doubt, to use those famous words of the Supreme Court, that their dependence for the major source of their financing on the Federal Government has a "chilling effect" on the freedom of speech? About the only people who now have full freedom of speech are people in the fortunate position that I am in—a tenured professor at a major institution on the verge of retirement.

Let me come down to Brigham Young University. The bureaucratic lash which has extended from Washington has even reached here with a proposal to impose on Brigham Young various requirements of Health, Education and Welfare—requirements that, in my opinion, would interfere severely and seriously with your performance of your selected mission. Every academic institution in the United States is threatened in exactly the same way. If it were not so serious, it would be humorous because there is no group in this country that has done more to bring this upon themselves than the academic community. We have been in the forefront in persuading the public at large that the doctrine of individual responsibility is a false doctrine; that the source of all good things is Big Brother in Washington. We only complain when it comes home and hits us.

Let me go from a description of the situation to an analysis. Why? What is the explanation of the tendency for the attempt to use the political market to achieve noble objectives to go awry and destroy our freedom. Why does it happen? In the simplest form, the fundamental fallacy of the welfare state which leads to both financial crisis and the destruction of freedom is the attempt to do good at somebody else's expense. That's the fundamental fallacy. First, nobody spends somebody else's money as carefully as he spends his own. That's why trying to do good at someone else's expense leads to financial crisis.

Second, if you are going to do good at somebody else's expense, you have to take the money away from them. So force, coercion, destruction of freedom is at the very bottom, at the very source, of the attempts to do good at somebody else's expense. About seven or eight years ago, in an article published in the New York Times magazine section, John Kenneth Galbraith said that there was no problem in New York City which would not be solved if the city government's budget was doubled. In the interim the city government's budget has been quadrupled and so have the problems. And the reason is straightforward. While the city government had more to spend, the citizens had less to spend because the government can only get the money by taking it away from somebody else.

More fundamentally, to get beneath this simple description, what is at the bottom of our problem is the failure to recognize the distinction between the political market on the one hand and the economic market on the other. This distinction, which I would like to develop, is one that can be expressed in various terms. You will pardon me if my professional background leads me to put it in economic terms. The political system is a marketplace; the economic system is a marketplace. These are two different kinds of market mechanisms and they have very different consequences. Though it may seem a paradox, the economic market is a freer, more democratic market than the political marketplace.

Let me at the outset put to one side a false distinction between the two markets. We tend to be misled by words. Because we speak of a person in the economic market as having a private enterprise, we think of him as serving his private interest. Because we speak of a government bureaucrat as being a public servant, we speak of him as serving the public interest. But that is an utterly false distinction. Almost every individual serves his own private interest. That interest need not be pecuniary, it need not be monetary, or physical or material. The great Saints of history have served their private interest just as the money-grubbing miser has served his private interest. The private interest is whatever it is that drives an individual. A government bureaucrat is seeking to serve his private interest just as much as you or I or the ordinary businessman is serving his private interest. To make this point in the most extreme form, if you compare the manager of a Russian factory who is a public servant and the manager of an American factory who is supposedly a private employee, they both are serving their self-interests. The only difference is that the actions that will serve their self-interest are different. The American manager has to worry about getting fired; the Soviet manager has to worry about getting fired at! And that makes a big difference in what's in their self-interest.

In exactly the same way, the bureaucrats at HEW in Washington who are trying to extend their control and impose regulations on Brigham Young, on Chicago, on Hillsdale, on all the other colleges, are serving their private interest. They may believe thoroughly in what they are doing, but they are nonetheless serving their private interest in seeking to extend the scope of their power, their importance and their influence. It is a myth that there is a difference between the motives of the people who are employed in government and the people who are employed in the private sector. This is equally true of those who are competing for votes. The legislators are competing one with another. They are competing for votes and it is in their private interest to do those things which will get them enough votes to get elected .

A second myth about the political market is that as opposed to the economic market in which individuals vote with dollars, in the political market there is one person-one vote. That is true on a formal level, but it is obviously false on a realistic level. It is a system in which there is highly weighted voting; in which some people have an enormously greater influence on the poltical outcome than others. This is obvious in all sorts of ways. You need only look at the kind of thing that we have been talking about. Take the most dramatic example at the moment. We have a great dispute in this country about forced busing. Whatever may be said for or against it, there is not the slightest doubt that 80–90 percent of both whites and blacks in this country are opposed to forced busing. Yet we have it and we are going to continue to have it. How can you explain that on the basis of one person-one vote?

There is a highly weighted voting system and an analysis of the political market must investigate why there is such a weighted voting system. Is the problem with the political market that you have wicked people? No. The people who operate in the political market are just as wicked or just as noble as the people who operate in the economic market. They are the same people. The difference is the structure of the market. The difference is that the political market is a system under which all decisions have to be yes or no.

The fundamental difference between the political market and the economic market is that in the political market there is very little relation between what you vote for and what you get. In the economic market you get what you vote for. Let me give you a very trivial example of the kind of thing that I have in mind. Let's suppose the question at issue is whether neckties should be red or green. If that is going to be decided by a political mechanism, everybody votes. If 51 percent of the people vote that ties shall be red, 100 percent of the people get red neckties. In the economic market each one of us goes to the store separately. If 51 percent of the people vote that ties shall be red, 51 percent get red neckties and 40 percent get green neckties. Everybody gets what he votes for. Now this is a fundamental difference between the two markets.

There are some things for which the vote has to be yes or no. Those are the things which are the appropriate function and role of government. There is no way in which 51 percent of the people in the United States can be at war in Viet Nam and 49 percent of the people can be not in war. That is precisely the kind of a decision that has to be decided through a mechanism which permits a yes/no vote. The problem is that we have extended the political market beyond things of that kind and to the kind of things where it is possible for each person to get what he votes for, where we do not have to have a yes or no decision. If you have a yes or no decision, then there is almost always a very loose or no relation between your vote and the result. As a consequence, you do not in general have any incentive to examine the issue you vote on thoroughly, i.e., to vote intelligently. In the political market, this phenomenon leads to weighted voting in favor of special interests and opposed to the general interest. If I have some piece of legislation that is going to benefit a small group a great deal, the members of that small group have a real incentive to learn about the issue, to bring pressure on their legislators to lobby for it in Washington. The rest of us? Here is something which is going to mean millions of dollars separately to each of a small number of people, but to you and me it means 50 cents extra on our tax bill. What incentive do we have to find out about it or to spend any time voting intelligently, or to bring pressure on our legislators.

Let me give you a few very simple examples. About three or four years ago the then President Nixon tried to eliminate a program under which the federal government had for many years been subsidizing people who tasted tea. This is literally true. This is a program under which the government graded tea for the benefit of importers and you and I paid taxes to hire people to taste the tea and decide which grade it should get. It is very hard to see any general public interest in that. After all, the tea industry can provide those people. Mr. Nixon made the simple, obvious proposal we should eliminate it. We still have that program because the people in the tea industry got up in arms about it. They didn't want to have that little thing taken away from them. Is there anybody in this audience who would take his vote away from a representative because that representative voted to keep the tea tasting arrangement?

Let me give you a more important case. We have a post office which I would hardly suppose is distinguished for its efficiency. For many years I have been trying to propogandize for elimnating the monopoly privileges of the post office; for opening it up to competition. About a dozen years ago, I talked

to a good friend of mine who was then in Congress to urge him to introduce a one sentence bill eliminating the monopoly privileges of the post office. He said to me, "You know I agree with you completely, but can you name me an organized group that will come and testify in favor of that bill? I know about the organized groups that will be there to testify against it. There will be the postal employees union; there will be the organization of newspapers and of magazines who will testify against that bill," and he went down the list. All of those organized groups would testify against it. The people who are benefited don't even know that they would be benefited. If you eliminated the monopoly on the post office, there would develop a viable active private industry carrying mail. Some of you people in the audience might at some time be employed in such an industry, but do you know it? Are you going to go down to Washington to campaign in favor of that bill? Not a chance of it. "So," he said, "there is not a chance in the world of getting that bill through. It's just a waste of my energy and time to move in that direction."

We mustn't suppose that this favoring of special interests only applies to others. Brigham Young University may be an exception in that it relies to a very limited extent upon governmental subsidies, but most institutions of higher education in this country are very much subsidized by the government.

Some of you may remember that years ago a former president of General Motors testified before Congress and was so injudicious as to make the statement, "What's good for General Motors is good for the country." My colleagues at the university hooted and scorned him for such a self-serving statement. But then the next day they were taking airplanes to Washington to testify before Congress that what was good for higher education was good for the country. And not one of them saw the irony and the inconsistency.

Each of us separately will try to use this government mechanism to get special benefits for ourselves. Again, going back to that episode last September before the WIN Program was instituted, President Ford had a summit meeting at which people from around the country came together on the subject of inflation. I heard one representative of special interests after another get on the platform and say, "What this country needs to stop inflation is to cut down government spending and the way to cut down government spending is to spend more on me." That was a universal refrain from the farmers, the trade unions, the business representatives, the representatives of the universities.

That is the fundamental defect of the political mechanism: it is a system of highly weighted voting under which the special interests have great incentive to promote their own interests at the expense of the general public. The benefits are concentrated, the costs are diffused, and therefore you have a bias in the marketplace which leads to ever greater expansion in the scope of the government and ultimately to control over the individual. The way to get elected to Congress or to the Presidency is not really to appeal to the general interest. A majority decides, but it is a special kind of majority. The way to get elected is by putting together a coalition of special interests. You go to a group that has 5 percent of the vote and say, "I will vote for what you want if you don't care what else I do." And, they say, "Oh, I don't care what else you do." You go to another 5 percent and in this way you assemble 51 percent.

The characteristics of the economic market are very different. The fundamental point is the one I mentioned before. In the economic market—the market in which individuals buy and sell from on another—each person gets what he pays for. There is a dollar for dollar relationship. Therefore, you have an incentive proportionate to the cost to examine what you are getting. If you are paying out of our own pocket for something and not out of sombody else's pocket, then you have a very strong incentive to see whether you are getting your money's worth. In addition, nobody can get money from you in the economic market unless you agree. There is nobody who can put his hand in your pocket without your permission. In the political market that is the standard way of financing everything. As a consequence, you have in the economic market true individual freedom and a true individual incentive to get what you vote for and, more importantly, the incentive to find our whether what you are getting is what you voted for and is proportional to the cost to you.

The fundamental problem of a major society, of a society like ours, is that millions and millions of people must cooperate with one another for their daily bread. Fundamentally, there are only two ways in which large groups of people can be induced to cooperate with one another. One way is the method of the army, through force and coercion and direct order. The General tells the Colonel, the Colonel tells the Major, who tells the Lieutenant, and so on down to the private. The other way is through voluntary cooperation among people, each of whom is separately pursuing his own interest. In fact, the first method cannot work. The world is simply too complicated. There are too many facts of special time and place for it to be possible to run any complicated system on the basis of direct order. So that in fact, all systems of cooperation among large groups of people involving a mixture of these two. But, it makes an enormous difference what the mixture is. You know, it is like the joke about Hassenfeffer—half horse, half rabbit—one horse, one rabbit. The character of our society is fundamentally determined by whether the horse is the political market and the rabbit, the economic market or the other way around. Paradoxically, therefore, the situation is that the economic market is a more effective means for achieving political democracy than is a political market.

Let me add one more word on that. When you think of the economic market and the political market you tend to think in narrow terms. You tend to think of the economic market as concerned with the mundane, material things; such as, producing bread or cheese, or automobiles or houses. But the principles I have described apply much more broadly. The private market, the economic market, is also the most effective means for doing good. If you go back to the period in the United States when we had the most unrestricted operation of the free private market, the nineteenth century, it was also the period of the greatest burst of eleemosynary and charitable activity in the history of our country. Brigham Young University, my own University of Chicago, many of the other colleges and universities of this country were established during the period of the nineteenth century. They were established by the private market arrangement; namely, by voluntary cooperation among people spending their own money for something they themselves believed in—to establish a university or a college. The great system of public libraries, the Carnegie Libraries, was established during that period. That was a period that saw the birth of the private eleemosynary hospital, of the foreign missions, of the society for the prevention of cruelty to animals. You name the charitable activity and you will find that in almost every case its origins go back to that time. So the private market (what I described as the economic market of voluntary cooperation), is in my opinion the most efficient and effective way of doing good as well as the most effective way of organizing economic activity.

The U.S. is coming to a crossroads. We cannot continue along the road we have been going. In going from 10 percent of the national income being spent by government to 40 percent it was possible to maintain a large element of freedom and individual liberty because it was possible to give large benefits to small groups at small costs spread over many people. But one thing you can be sure of: in the next forty years we cannot go from 40 percent to 160 percent. So, we are coming to the crossroads. We are coming to the problem that faces Chile which as a poor country tipped over at 40 percent. Britain is wealthier, but appears on the verge of tipping over at 60 percent. We still have some ruin left in us, but pretty soon we are going to be forced to face up to the issue. Where we go from here depends on you, on the generation that is going to determine.

MR. SALVATORE D'AMICO, VA'S OUTSTANDING HANDICAPPED EMPLOYEE

Mr. WEICKER. Mr. President, the citizens of Newington and Connecticut are fortunate to have working with our disabled veterans a man who himself overcame serious handicaps to continue providing greatly needed assistance to others. We are very proud that Mr. Salvatore D'Amico, social worker at the VA hospital in Newington will receive one of the Outstanding Handicapped Federal Employee of the Year Awards to be presented in Washington, D.C., on September 30.

I call upon my colleagues to pause a moment to consider the courage and perseverance of this fine young man. Here is his story:

The 36-year-old veteran was born in Bengasi, Lybia. He lived in Italy until 1956 when his family brought him to the United States to provide the opportunity for education and for a better future.

Mr. D'Amico entered military service in 1959. He lost both hands and was blinded by an explosion while on duty with the U.S. Army in Germany. He was retired on disability status in 1962 after extensive treatment of his injuries in several VA hospitals.

With the assistance of VA's Vocational Rehabilitation Service, the energetic D'Amico completed his high school education, graduating in 1966, and went on to receive a bachelor of arts degree from the University of Hartford in 1970 and, in 1972, a master's degree in social work from the University of Connecticut.

During the past 3½ years of employment as a social worker at the VA hospital, Mr. D'Amico has had a variety of assignments. He is responsible for blinded veterans as Secretary Coordinator on Visual Impairment Services Team; he assumed chairmanship of the Vietnam Era Veterans Committee and recently assumed full responsibility for rendering social services to the surgical wards.

In all these areas, Mr. D'Amico has worked diligently, efficiently and effectively in helping veteran patients with a

variety of problems. His own ability to overcome serious problems and physical handicaps has given him a positive outlook and conviction in mobilizing others to help themselves.

He has received numerous awards for his work with disabled persons, including a special award from the Civil Service Commission in 1974 for his efforts in behalf of the program for employment of the handicapped.

He is active in a number of organizations devoted to the welfare of blinded or otherwise handicapped persons, including the Blinded Veterans Association, American Association of Workers for the Blind, and the Disabled American Veterans.

In 1974 he received DAV's Outstanding Disabled Veterans Award and the Blinded Veterans Association's Achievement Award. In 1975 he was named to the Department of Health, Education, and Welfare's National Planning and Advisory Council for the White House Conference of Handicapped Individuals. Recently, Mr. D'Amico was presented one of VA's highest honor awards, the Administrator's Commendation, in recognition of his daily contributions at the VA hospital in Newington, Conn., where "he has ably demonstrated his ability to overcome limiting physical factors and meet the highest standards of a Federal civil servant." Administrator Roudebush said that his achievements have brought great honor to himself and to the Veterans' Administration.

Mr. D'Amico, his wife and four daughters reside in Wethersfield, Conn.

CANON CHARLES MARTIN: A RELIGIOUS AND EDUCATIONAL INSPIRATION

Mr. PERCY. Mr. President, Canon Charles Martin is one of Washington's most distinguished and beloved citizens.

As headmaster of St. Albans School for Boys for the past 28 years, Canon Martin has touched the lives of thousands of young men. The impact that he has made on these young men and their families is almost immeasurable.

Canon Martin is one of the most devoted men I have ever known. He is devoted to God, his fellowman and the institution he serves. It is an honor and a privilege to know him.

Canon Martin will retire next spring after his long tenure at St. Albans. Recently Mr. Henry Mitchell of the Washington Post captured the personality of Canon Martin and the great contribution he has made in an excellent profile. 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 Washington Post, Sept. 15. 1976]

GOD AND MAN AT ST. ALBANS

(By Henry Mitchell)

Sort of rocky, you know, with the fever, but tomorrow will be better and at least (the boyish handwriting of the letter goes on) he has got through a day's stint of Virgil and Xenophon and is ready to hit the hay.

It was the last day of the boy's life, however, and you can't help hoping, as you read it framed in the reception room at St. Albans School for Boys, that the Virgil was knockout Virgil and the Xenophon was the best there is.

Never know, of course. The letter is framed and hung, not very prominently, in a room before you get into the headmaster's office, and you wonder why almost as much as you know why.

The headmaster is a little surprised to see you, and so is his English bulldog, since their secretary overlooked telling them you were dropping in for a three-hour chat.

Never mind. Genius consists largely of not getting too surprised. You can live through anything.

The clear glass window is centered with a colored panel that looks like Henry Tudor fixing to water some roses but may be the battle of Bosworth Field—art is shifty, like history and (they say) life.

There is certainly nothing shifty about Charles Martin, priest attached to the Washington Cathedral and headmaster who will retire next spring after 28 years on the job. This office is his, in the way that few offices bear any personal stamp these days, and the walls are quite glossied over with pictures of boys and bishops and dogs.

Canon Martin settles tentatively into his chair and Cleopatra (the dog) is quite prepared to take the best part out of your trousers if it comes to it, and yet all things work for good to them that fear the Lord, as the canon is fond of observing, along with St. Paul.

He is not sure how to summarize, in four sentences or so, what everything has meant, and whether we have all come through great movements of history and where the world should go now. So that's out, and it's just as well, since the canon is on call for three very sick people and may have to do what he can for them, leaving the wisdom to wait.

"Coffee?" he asks. Ha, a sin. There always is, if you look. There is a door just past his desk and behind it are shelves with more than one pound of ground coffee. The canon asks for it three times. It is sinner's corner there for a while.

He was not always a coffee addict, however, and he led a wholesome, blameless life in Burlington, Vt., before coming to St. Albans. Up there he had been rector of a large church, member of the school board, the city planning commission—"happiest years of my life," says Martin, who is married and the father of four children.

He came to St. Albans because it seemed to combine his two great interests, the church and education. Founded in 1909, St. Albans had always counted among its students (now numbering 500 in grades 4–12) many scions of wealthy and influential families. But during Martin's tenure as headmaster he has tried to see that the day school not become a bastion of insular privilege.

In Martin's time some of the boys began to spend their summers working, and some went to Africa and cleared brush, a departure from summer holidays in the past when many boys simply practiced their tennis. Russian was introduced to the curriculum (nobody ever thought of Russian as a learnable language until the Soviet Union became a great power) and in 1954 St. Albans announced that it would admit blacks, who now number 44.

The headmaster sets the tone of a school more than any other factor and Martin thought the school should not be laggard in following the Supreme Court decision against segregation.

Martin leans back. His dog, who has concluded that if battle has not been called for by now it probably won't be, has snuggled up to the visitor and honors him with some drooling which will probably come out in the wash.

"There was a greening of America," Martin says. A loosening. You didn't have to watch how you tied your tie, you could be less self-conscious.

It wasn't so important, any more, to go to the right college. It was more important to go where you could expand and develop from your present self, instead of some place where your energies would all be used trying to keep up, or trying to prove you were something other than yourself.

Not too much should be made of this trend—Williams is better in some ways than Yalobusha State—but some shift of consciousness did indeed occur.

Martin noticed people were a bit more generous in endowing learning—a fund to beef up a master's salary, say—and no longer thought entirely in terms of memorial gymnasia.

Parents still sometimes indicate they hope young Will can be admitted to Yale, but Martin doesn't care much about that. What some people forget is that Martin is a priest, and for more than a quarter-century now has looked at the walls of the cathedral through his windows. He has christened, married and buried human beings. People have told him things they would die if anybody else knew.

He has seen them when all the chips were down, or all called in, and he is capable of saying his job is to get people into the Kingdom of Heaven, not Harvard College.

When he meets a new boy he tries to figure out where the boy is right now, what interests him, what he's good at, how he might be encouraged and led.

Fathers, notoriously blind, sometimes want sons to be what those sons are not going to be in this world or any other.

Too often, unless there is a wise intermediary, a young person can get pushed in some parental dream direction, and this rarely works in the long run, but sometimes long enough to waste years and breed bitterness.

Martin's idea, stripped of important refinements, is to give a boy the best environment for learning and developing, and to minimize obvious hazards, and expect the boy to develop along his own lines.

This is only a shade different from what headmasters have always thought, but the difference can be critical to a boy.

Martin says hardly anything works out as he hoped it would, or thought it would. And yet sometimes the real result is better than the optimistic dream itself.

There was a lad from a deprived background who turned out extremely well, scholastically, by dint of intensive work by him and the masters determined to fill in the educational blanks of years. But Martin knows you can only do so much of that for any boy—the resources of time and energy cannot take on everybody.

How far can you go helping boys who have not had any luck? Martin sweats that unanswerable one.

A school may be like a gold treasure—should it be divided so everybody gets one penny or so one man gets a million dollars? Obviously not. But where is the breaking point, beyond which a division of the treasure means nothing to anybody? How do you divide it so it does the "most good," whatever that means?

The mere fact that there are no unarguable answers does not mean there are no real questions, and Martin's life, both as a priest and a headmaster, has been spent trying to adjust imponderables.

"I think it helps," he said, "if you can be humble about it. Open. Openminded. If I do something that is hard for me, it helps if I can think I didn't do it out of anger, or softness, or some advantage or for any other reason than that it was the best for the boy.

"For example," he begins, and then hesitates.

There was a boy, with a name familiar to everybody because of his family, who cheated once. A lot of time and talk was spent getting the boy straight, and he stayed. Then the day before graduation it was found he had cheated again, after all the straightening out. His family had come for graduation. The whole bit. He did not, of course, graduate, and yet it was hard for Martin to tell him and his family that he could not.

It would have been the most terrible injustice to the boy—it would have earned his deepest cynicism as well—to let him think it really made no difference. This kind of thing happens at any school, but it is never easy.

Martin himself went to public schools. The school should be good, public or independent, and that's that. You should learn to write an English sentence, Martin says (knowing it will alarm any writer, of course). Learn to think straight.

He is never concerned—it is not the true concern—about where the money comes from to run an independent school.

Fill a need, he says, and the means will come. Be very good, he says, and your school will survive.

But you might ask him, what of something that is good, like the Metropolitan Opera, that seems to stay in danger of going under? What of beautiful architecture that has not been saved, what of all the things that have gone, not because they weren't useful or beautiful or superior, but because they weren't profitable or massively popular?

Even so, he says, when such things happen it is because they neglected something crucial—maybe the salaries were unreasonably high, maybe there was too much snootiness toward lesser institutions, maybe they outlived their original purpose—the church itself may not ignore new worlds and new times.

Not the forms, however beautiful, but the substance, however raw, seems to be the canon's holdfast. Not the cup, but what the cup holds.

His bulldog is the fifth in a line that began with Marc Antony and settled in with Cleopatra, Cleopatra II and now Cleopatra IV, an old dog less strong for roving than a pup, but more beautiful.

It annoys Martin when people think his bulldogs are amazing looking. To him they are beautiful, like a hart on the mountain, though somewhat different, of course.

The phone has not rung. The very sick are still very sick, no worse. The interruption to his day has been accepted. It is all in God's hands, and in a sense Martin does not care in the least. His job is to be open, to put himself second, to be reasonable and not worry.

The glass windows of the corridors look out. Now it is noon, but it makes no difference, suns or moons. A man should have a light of his own.

MAO TSE-TUNG

Mr. THURMOND. Mr. President, the death of Mao Tse-tung, who remained for 27 years an undisputed dictator of Communist China, was a watershed event not only for China and Asia, but for the entire world.

Mao Tse-tung was an overpowering figure in China, in the world Communist movement and in world affairs, but he kept his country in a state of constant turmoil and "permanent revolution," and died leaving uncertainties in the political and administrative structure of China for the immediate future and for the years to come.

Mao's style of leadership was unique because of its ruthless and cold personal dictatorship and constant uncompromising scheming against his friends and enemies alike, but primarily because of his basic conviction that the revolution never ends. He started his political career in 1920 when at the age of 27 he attended a meeting in Shanghai where the Communist Party of China was formed. When later he returned to his native Hunan province, he formulated and implemented his fundamental ideas of the perpetual revolution of peasants, a basic political strategy which he never abandoned right up to his death on September 9, 1976.

By organizing and reorganizing—eliminating his opponents—Mao succeeded in building a military force of about 100,000 people under his personal command by 1934. This was the year when Mao's Communist army was almost eliminated by the superior armies of nationalist groups commanded by Chiang Kai-shek. Mao's army broke out of encirclement and in the 6,000 mile long march reached Yenan Province with only 20,000 troops, the balance of which having been decimated in the march. This ruthless sacrifice of 80 percent of his own force remained the hallmark of Mao's methodology of political operation—to rule and impose his leadership by "consolidating" his ruling circle. Mao Tse-tung and Chou En-lai remained the undisputed leaders of the Communist forces in China since the long march in 1934 until both of them died in 1976, Chou in January and Mao in September.

In the period following World War II, the United States made one of the biggest political mistakes of our postwar history—trying to mediate between the Nationalist and Communist groups in China, and influencing the Nationalists to make concessions which ultimately contributed to their defeat.

In 1949 the civil war ended with the Communist victory on the mainland and the withdrawal of the Nationalists to the Island of Taiwan.

Mao Tse-tung continued his policy of perpetual revolution and in a succession of purges eliminated all his potential rivals and former comrades-in-arms, consolidating his personal grip over the controlling military-political mechanism in the country. After a series of different "revolutions" in 1954, 1958, 1962, 1966, 1972, and the most recent one in 1975–76, the leadership of the Communist Party of China was reduced down to Mao and Chou, and the group of "newcomers" headed by Prime Minister Hua Kuo-feng and Mao's family circle, including his wife Chiang Ching, acting as the controlling link with Mao himself.

This instability of leadership did not contribute to administrative continuity and economic progress. The staggering contrast between the economic prosperity of Taiwan, under the free economic system and stability of the Nationalist administration, and the poor agricultural and industrial level of production in mainland China was primarily the consequence of Mao's dictatorial methodology of continuous revolution.

Throughout his life Mao remained suspicious, intolerant, and devious. His entire life in some way was devoted not to the construction of a better China but to guerrilla techniques, both in fighting his real or imaginary adversaries and the administration of a huge country, which became his responsibility after the victory over the Nationalists in 1949.

Mao wanted to destroy the ancient Chinese system based on the family as the center of political and social relations and its Confucian philosophy. He wanted to replace this concept of traditional China with the collective concept of leadership and administration, with the "Communist man" as the centerpiece to the construction of a new nation. He never succeeded and died a disappointed man. He admitted the failure of his life in a poem to his dying comrade Chou En-lai, the last poem of his life, in which he said, "We will go, our mission unfinished may take a thousand years."

All his life Mao cherished the "masses" and hoped the revolution would come from the bottom up. In this, he alienated the specialists in all classes, the economists, the technocrats and the ruling military. But even the "massive" of the poor peasants and workers quietly and subtly subverted all his attempts to mold them into a source of revolutionary force.

A guerrilla fighter to the very end, he launched one campaign after another, retreating if necessary, attacking again with abandon and without any consideration for the losses; in the great leap forward, in the great proletarian cultural revolutuion and in a recent attack on "imperialist roaders." His effort was in vain—the flowers did not bloom, the cultural revolution did not work, the job remained "unfinished," and the dream unfulfilled.

It seems to be clear that after Mao's death his temporary successors, like his widow, Chiang Ching, and the "newcomer" Prime Minister Hua Kuo-feng, will not last very long. Mao's permanent revolution, which swept them to the surface during his last days, will probably not sustain their political life very long, now that the master is gone.

Mr. President, there has been a report on the "Strategic Significance of Taiwan" written by Gen. Wago W. K. Chiang, president of the Armed Forces University of the Republic of China, which I feel would benefit all of my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

THE STRATEGIC SIGNIFICANCE OF TAIWAN

(By Gen. Wago W. K. Chiang)

PART I—AN ANALYSIS OF WORLD SITUATION AND GLOBAL STRATEGY

1. The importance of having a strategic objective:

An objective must be the basis of all mental estimates of situation, planning and action. It has great bearing on the over-all situation of the decision-maker and determines his success or failure. If a decision-maker has no definite objective in mind, or he cannot stick to his objective, all his efforts will be wasted and he will certainly lose the game.

On the other hand, it is also very perilous if his objective is not clearly defined or he

erroneously takes his means as an end. For this reason, our beloved leader, the late President Chiang instructed us: "In a military operation plan, the first thing we have to do is to determine the objective. Only when the objective is determined can we decide when, where, what course of action we shall take, and how many forces we have to use to implement the operation plan to achieve the objective."

Napoleon also said: "War direction should follow a certain procedure; any war should have an objective." When we look around the globe we can see that nations the world over all have their own particular national interests, and their national interests will be achieved and enhanced through their national objectives. And national objective is achieved through the application of various elements of national strength (i.e. political, economic, psychological and military).

For this reason, in any strategic direction, we must first determine what is our own objective. If we study our relationships with given parties to decide whether the relationships are friendly or hostile in nature, we must also first find out what objectives these parties are pursuing. If their objectives agree with our own, then they are our friends. If their objectives disagree with ours, and if the degree of disagreement has reached the extent of collision or even contradiction, and their nature has become destructive and detrimental to our objectives, then they are our enemies. Therefore, to determine our own objective and to clearly identify those of others are premises or pre-requisites in our study or analysis of any strategy or of a given relationship. We will thus determine whether it is friendly or hostile.

In such a case we must decide:

a. What is the objective which my country is pursuing?

b. What endangers our national objective? In other words, what is in our way of achieving our national interests?

Only in this way can we rally our people internally and consolidate our national strength to strive for a correct and clearly defined national objective at whatever sacrifice. And only thus can we strictly identify friend and foe externally, clearly mark our camp and firmly maintain our stand to fight an all-out battle to the end for the cause of truth and peace for mankind.

The fundamental mistake which the nations of the free world have made during the past is that they have neither established their own national objectives nor have they been able to find out clearly what their enemies' true objectives are. This mistake has resulted in a mental perturbedness in the free world about where the free world should be headed, and a confused situation in which friend and foe and right and wrong are not distinguishable.

If a country cannot decide for itself where it should go (i.e. what is its national objective) then, it certainly has no stand to speak of. It is, so to speak, like a floating heart moving in the direction of wind and wave and resting at any place, regardless of friend or foe. It certainly is unable to make out which country is on its way to realizing her national objective. This is not only the mistake of the free world but it is also the tragedy and catastrophe of mankind living in this century.

2. "Red Peril," not "Yellow Peril"—the true threat to our world today:

Another mistake which the free world has made is its failure to understand fully and thoroughly the characteristics of the various areas and the historical backgrounds of various nations. This mistake has again resulted in a confused situation in the free world, where it is difficult for a nation to tell which is really a friend and which is really an enemy.

China is a case in point. The conquests of Genghis Khan of the Yuan Dynasty, which extended to as far as the present day Soviet Russia and Hungary, were really a catastrophe to the white people in Europe in that age. Therefore, they created the term "Yellow Peril" to denote their mentality of dread of aggression by the yellow race. This mentality has survived to this day. The people in the Western nations still have the wrong image that the yellow race is aggressive.

Regrettably, little do they realize the fact that the overwhelming majority of the Chinese people, especially those who resided in the central region of China, have always been a peace-loving race. Those people who followed Genghis Khan to conquer Europe were not the majority tribe but a minority tribe on the northern border—Mongols.

This minority tribe later ruled the central region of China—and became known in Chinese history as the Yuan Dynasty. But this is remote past to us now. Those who followed Genghis Khan to conquer Europe were the belligerent Mongol tribesmen and not the majority Chinese people. Today even the Mongols are no longer the same. Moreover, during the course of the development of the entire human culture, the races of both the West and the East all took part in acts of territorial expansion. Among them, the Chinese race have been the most friendly toward other peoples.

Although the Chinese extended their activities to every part of the world, their acts all were friendly intercourse, trade and commerce, and never political or military aggression. Even if we grant that there had been aggressive acts, both the races of the West and the East were committed to territorial expansion in that age. With the progress of time, these acts were no longer tolerated in the international community in the last hundred years. For this reason, since the termination of the several major wars which ravaged Europe in the past, only the First World War and the Second World War were set off by the madness and ambition of a few. Their mad acts of aggression aroused strong opposition among the nations in the world, and were severely punished at the end.

Unfortunately, however, these mad acts of aggression which endanger the welfare of mankind have been inherited by the Communist bloc. The Chinese Communist regime is most dogmatic, vicious and ruthless. And more unfortunately, the aggression of the Chinese Communists has been wrongly identified with the yellow race and not with international communism, as a new form of aggression.

This new form of aggression, the "Red Peril," has plagued many parts of the world. One hundred and nine years have elapsed since Karl Marx wrote "Das Kapital". It has been fifty-nine years since the first communist state came into being in Russia. With a 109-year-old theory and 59-year practice, the torrent of the "Red Peril" has already flooded more than half of the face of the earth and exacted a toll of more than sixty million human lives. The most recent dreadful scenes of mass destruction of human lives took place in Cambodia and Vietnam after those states were taken over by the communists.

And the "Red Peril" continues to spread toward the remaining free world. For this reason the real threat to the peace of the free world and the national interests of the United States is the "Red Peril"—the communist bloc—and not the "Yellow Peril." If, then, the Westerners still retain a wrong image of the Chinese people, and thus divert their proper attention, it is neither reasonable nor fair. What is more, they will make a fundamental mistake in their global strategy.

We sincerely hope that the far-sighted statesmen and military leaders of the free world can perceive the fact that the aggression of the Chinese communists is generated by communist ideology and not by Chinese culture, nor by the traits of the Chinese race. The essence of the rich traditional cultural heritage of the Chinese people is "Freedom, Equality and Fraternity." World peace and freedom of mankind can be founded only on the recovery of the China mainland by the Republic of China, the guardian of Chinese cultural heritages, and her growth in stature and strength. Therefore, the correct concept and direction for the world strategy of today should be full cooperation by the nations in the free world with the Republic of China to remove the Red Peril from the face of the earth.

3. Two erroneous assumptions:

Because the politicians of the free world do not have a clear understanding of communism and the characteristics of the communist countries, and especially the great difference between Russian communists and the Chinese communists, they have, consequently, made the following two erroneous assumptions:

a. Soviet Russia has been revising its policies.

b. Since Soviet Russia can make revisions, so the Chinese communists also can and will follow suit to revise their policies. The free world need only to display the reasonable way of living in the developed areas in the free world continuously before their eyes and the Chinese communists will certainly be influenced and stirred to go on revising.

These two assumptions show that in the first place many free world politicians believe that Soviet Russia has revised its goals in the past, and that the revision is still going on. It is true that communism had inherent weaknesses in its theory, and the influence of the free way of living of the free world has forced the Russian communists to make some revision. But the people of the free world have failed to realize the fact that their revision was made only in the field of tactics and in their strategic objective they have never made any revision.

The inflexible strategic objective of Soviet Russia is to communize the world—it wants to impose on the whole world the political system and the collective way of living it conceived. The people of the free world, however, still meet this new threat with their traditional philosophy. They think that for each country to have its own way of doing things is a freedom it should enjoy. Therefore, they will not mind what kind of way of living the communist countries have chosen. The free world people care only about the way of living they themselves are pursuing. As to what kind of way of living the communist countries should choose, this is not their business.

This attitude based on the considerations of equality and mutual respect is certainly proper in international practice. However, the situation and the party they are dealing with are different from those of the past. The enemies the countries in the free world are facing today are the insidious and ruthless communist countries. They use police force to maintain totalitarian government and a collective way of life in their own countries, and they also want to force all countries in the world to adopt their way of life. In other words, they want to enslave the whole world. Their system is aggressive in nature. Their intention is to change man's reasonable way of life to inhuman living to satiate their aggressive desires. This is what the politicians of the free world cannot discern, and this also is overlooked by the people in the free world.

Speaking of aggression, it may be divided into two types. One is conventional. A country may openly march its military forces into another country or area and force the gov-

ernment there to accept its aggressive terms. The other is unconventional. A country may secretly fulfil its aggression by infiltrative and subversive means into an area or country, to disorganize the government or to control the government and finally force it to accept the terms of aggression. Too many people of the free world are familiar only with the conventional type of aggression and fail to pay attention to and understand the second type. Little do they realize that during the last twenty years the manner of aggression which the communist world has adopted for expansion is to use the two types alternatively. The main effort is laid on the second—the infiltrative and subversive type of aggression. Through this means, one nation after another and one area after another in the free world have been communized without the rest being alarmed.

The most strange thing is that at present when the heart land of the world has been completely submerged in the red flood and enclosed behind the iron curtain, many politicians in the free world still feel that "the world is big enough for them." They do not realize that the cause of many countries in the free world being communized, one after another, in the past was infiltration and subversion by the communist bloc. They still believe that Soviet Russia and the Chinese Communists have revised their policies in the direction of promoting peace for mankind. And these politicians have busily engaged themselves in "negotiations," "appeasement," and even "normalization" with the communists. Apparently they still naively hug the hope that "the communist countries will change someday."

Now let us discuss the second erroneous assumption of the free world. In this assumption, they believe that the "Chinese communists will also revise themselves." This is indeed illusory. To this date the Chinese communists have exercised tyrannical rule on the China mainland for twenty-six years and there have been no signs of revision. And I am sure that it is absolutely impossible for the Chinese communists to make any revision at all. This is not only the case for today, it is also the case for tomorrow and forever.

The Chinese communists are very apprehensive of the dangers which could result from revision. It could be taken to be a signal of their surrender to the Three Principles of the People. This is the peculiar situation of the Chinese communists which differs diametrically from that of the Russian communists. In the case of the Russian communists, if they make some revision in their tactics and keep their strategic objective unchanged, as they have been doing, their fundamental communist stand will not be affected at all. However, this will not be the case with the Chinese communists, because on the China mainland a firm foundation which was laid for the Three Principles of the People is still there. The politics of the Three Principles of the People has its base in the traditional Chinese political philosophy, in which the economic problems and the livelihood of the people are solved in a benevolent way. This traditional political philosophy or ideology was crystallized and written down and systematized in the days of Confucius, and deeply rooted. The communist ideology has not taken root in China yet. Here we should realize why the Chinese communists should criticize and purge Confucius posthumously, and even raise the tyranny of the first emperor of Chin, and give a severe blow to Confucius' thought. The reason is that Mao is afraid of the fact that the presence of Confucius' thought will remind the people of the Three Principles of the People. In order to wipe out thoroughly the thought of the Three Principles of the People remaining on the mainland, Mao spared no efforts to carry on his "Criticize Confucius and Praise Chin" drive to destroy our traditional culture and political philosophy.

If the communists on the mainland make any revision, if they become even a little lenient in their inhuman and dogmatic way in dealing with economic problems and the livelihood of the people, there will be possibilities of rekindling the thought of the Three Principles of the People and of overall reviving of the Chinese traditional culture. Therefore, no matter how small and unimportant the beginning in revision may seem to be, the impact will be far beyond what Mao can withstand. Because Mao will have to consider even a very small beginning, so to speak, "the scene of an uncontrollable torrent which may result from a leak on the bank of the Yellow River." For this reason, the Chinese communists on the mainland can only become more ruthless and relentless. They will intensify their oppressive and tyrannical rule and will never make any revision.

Many countries and politicians in the free world have failed to realize this difference in characteristics between the Russian communists and the Chinese communists. Because of this failure they have made these erroneous assumptions and stick to their fundamental stand, thereby leading to wrong concepts for their national strategy. They have in this way fallen victims to the tragedy in which they follow the will of the enemy, dance to its music, let the enemy manipulate them at will and become, so to speak, the flesh of the enemy's carving knife.

4. Review on the success and failure of two patterns of war:

The present situation has proved clearly the truth of a philosophy of war that initiative will win victory and passivity will lead to defeat. It also has proved the fact that the countries in the communist bloc have won repeated victories because they have initiatively employed the "divide-and-conquer" pattern of war. And it is an irony that oftentimes the communist bloc has conquered because the free world has done the work of division itself.

On the other hand it has also proved the fact that the countries in the free world have suffered defeat everywhere and have been forced to the margin of war because they, in order to avoid war, have passively adopted the "balance of power" pattern of war. Despite the bloody and humiliating lessons in Cambodia and Vietnam, they are still unable to realize their mistakes and cling to the "balance of power." That they want to avoid a war is a good thing, of course, and they have every right to hope for that. But it is wishful thinking for them to believe that they can avoid war by maintaining the "balance of power." I think that to hope for avoiding a war is necessary, but wishful thinking is useless.

No elephant can be turned out of a magician's hat; similarly, no permanent peace can be obtained from the "balance of power." On the contrary, it may only produce a war. From history we can find that when two countries whose ideologies are diametrically different or two countries whose interests are conflicting have reached parity in their power, they have reached the point to set off a war. In the Warring States Period in our history the seven powerful states rivaling for hegemony set a typical pattern to show how "balance of power" leads to war and turmoil.

Japan is another clear example in modern history. In the last war, when her naval strength in the Pacific Ocean reached parity with the strong Pacific Fleet of the United States, she rashly went to war with the United States to strive for dominance in the Pacific. When a certain country in order to seek "balance of power," the chances of setting off a war among the rival countries is very great. Each of these two countries will naturally fear that the other country may become suddenly stronger, and threaten its own strategic posture. Therefore, they will become jealous rivals, and enhance their war capabilities to prevent any sudden attack.

This tendency of rivaling for supremacy cannot easily be limited or stopped by any "negotiation," "agreement," or "talk." This rivalry will continue until a certain degree of parity is reached. At this point one party will seize the opportunity to strike first and let the use of arms decide which one is to survive. For this reason I would say it is impossible to have true "balance of power" appear in this universe. Even if it appears, it can not avoid war or bring peace. On the contrary, it can only bring war and destroy peace.

5. Three enormous financial outlays and their impact on the psychology of the people:

The free world and the communist bloc, under present confrontation have rivaled each other drastically to expand their power. The financial costs of their ambitions are alarmingly enormous. These outlays mainly go to the following three areas:

a. Defense outlays:—A modern strategic weapon system is very expensive. From design, manufacture and deployment, to attrition the cost is enormous and unprecedented. When the trend of the development of arms systems on both sides is toward the destructive nuclear weaponry, the financial burdens on both sides become more and more oppressive and endless. However, this "arms race" situation cannot be easily ended by any negotiations or talks.

b. Aid to allies in various areas:—Both parties have tried very hard to support their allies within their capabilities. However, the purpose of the free world countries in support of allies is defensive in nature. Therefore, the peace they may obtain is temporary. The purpose of the communist bloc in support of allies is aggressive and offensive in nature. What they want to achieve is not temporary peace but the communization of the whole world. This is their ultimate objective, from which they have not relaxed their efforts for a moment. The manner and purpose of support for allies or satellites by the two parties is different indeed but it has constituted the same enormous financial outlays to both.

c. The financial outlays for infiltrative and subversive activities by the communist bloc against the free world and the financial outlays of the free world to counter these activities.

The financial costs mentioned are indeed great for both the parties, but in the communist bloc the impact of these outlays on the psychology of the people is far less severe. Because the political systems of the two parties are entirely different, their economic structures are also different. In the communist economy all things are owned by the state and all earnings are controlled by the state. Therefore, the people have no way to know and also no right to ask about financial outlays, no matter how big they are. For this reason the spending has little impact on their psychology.

On the contrary, in the free world all things produced by the people, besides taxation, go to the people. If the government wants to spend more money, it must increase the rate of tax and take more money out of the pockets of the people. This has a direct impact on the psychology of the people, who feel bitterly the oppressive burden of the tax. Besides, in the free world, the government must first ask for approval of the legislators before it makes any outlays. This the people will know immediately and, therefore, it has an adverse impact on the psychology of the people. For this reason, the people of the communist world are far less sensitive to government spending than the people of the free world. The government of the communist country can do what it wants to do without regard to the sufferings of the people. In the democratic country the government must listen to the will of the people and of the congress which controls the government.

What is more, in the communist bloc, especially in territory controlled by the Chinese

communist regime, the many expenses are met not merely from what is squeezed from the people. A government can also net a very great sum of money from unlimited growth of poppies for opium. The narcotics traffic serves the Chinese Communist regime in two ways. It finances infiltrative and subversive activities in the free world with these earnings. It also uses the narcotics to weaken the free world—to cause the society, the psychology of the people, and the economy to break down. And finally, it can deliver its coup de grace through its skilled political subversive means, to make the political situation in the target country unstable and paralyze the whole country eventually. The free world after these set-backs, may suffer the following consequences:

Because the people are unable to withstand the economic burden psychologically, they may become impatient and choose a showdown to end their economic burden. In adopting "balance of power" as a delaying strategy to deal with the problems of today and procure a nominal peace, they in fact adopt measures which will lead to a great war.

Because the people are unable to withstand their weighty economic burdens, their confidence in their government may begin to waver. They may lose their patience and interests and become dissatisfied and indifferent—a very terrible state of low morale of the people which usually leads to a great nation's decline and fall. If we do not do something constructive, the low morale of the people, internal social unrest, communist psycho-chemical influence on the body and mind of the people and political instability may become more and more severe every day. The result will be an overall instability of our free world. This situation will certainly be utilized by the communists to overthrow governments, change governments, or set off civil wars within nations. If such situations persist, the fate of the free world is very clear—even if it is not communized, it will doubtlessly be dominated by the communist world.

6. The true source of the problems of the world:

I have pointed out briefly the three great financial outlays and their two possible adverse consequences which threaten the countries of the free world. If the free countries do not wish these consequences to materialize, they must face the problems in any part of the world realistically and no longer use the old delaying action. They should try to solve the problems they are facing today by expediency rather than by principle, they can never succeed. They can only find themselves in a great war at the end, which they certainly do not wish.

We Chinese have two very sagacious sayings warning us of the inadvisability of solving a problem by expediency and not by principle, that is, not tracing it to the source of trouble. The one goes: "apply cure to head when the patient complains of headache and apply cure to foot when the patient complains of sore foot". The other saying goes, "to try to stop the boiling of the soup in a caldron over fire by blowing to cool it."

"Delaying" is not the best strategy for the nations of the free world to use in solving problems in any part of the world, and expediencies do not agree with their best interests. They must find their best solutions to the problems by tracing them to their sources and removing them. Another Chinese saying goes, "The best way to stop the boiling of the soup in a caldron is to remove fire under it." Now, in the present world situation where is the fire under the boiling caldron?

Lenin has said, "the shortest route from Moscow to Paris is via Peiping and Calcutta." In other words, in Soviet Russia's plan for steps to communize the world, the Republic of China is its first objective and Korean Peninsula and Indian Peninsula its second objectives. Europe will be enveloped after it has dominated Asia. The next move will be to communize Africa and Latin America. And Russia will not spare the rest of the world when it finally consummates its plot.

You may still remember that the Korean war, the result of the communist aggression in Korea, broke out within a year after the fall of the China mainland into the hands of communists. Vietnam also became infested by the communists shortly after, and a protracted war broke out. Burma and India were all involved in border conflicts with the Chinese communists, one after another, shortly after the communist take-over of the Chinese mainland. Today, Vietnam and Cambodia have fallen into the hands of local communists supported by Chinese and Russian communists. The Pathet Lao (Lao Communists) have easily taken over the government of Loas in the wake of the victory of their comrades in Vietnam and Cambodia. The communist threat in Thailand has daily become more and more intensified.

Within a short span of a quarter of a century communist infiltration and subversion has become rampant not only in various areas in Asia but also in the Middle East, Europe, Africa, and Latin America. All these troubles can be traced to the fall of the China mainland into the hands of the communists as their starting points. After the Chinese communists dominated the China mainland, the whole Asia and even various other areas of the world successively suffered communist bloc political infiltration and military threats.

This happened while the Republic of China has stood firmly as the forward post of the free world to shield the blunt of Communist aggression. Had the Republic of China been gone, the situation would have been much serious. Therefore, we should be able to see very clearly that the safety and peril of the Republic of China, in a sense, is also the safety and peril for various nations in Asia, and is also the safety and peril of the free world. Indeed, whether the Republic of China is able to recover the China mainland has truly become the turning point, to decide the tranquillity or turbulance and rise or fall of the nations of Asia and the safety or peril and adversity or fortune of mankind.

Thus we may conclude that the source of the problems of the world is in Asia; and the source of the problems of Asia is in the China mainland. To reduce the situation into a single sentence, the true source of the problems of the world is in the China mainland. Only when the Republic of China is able to recover the China mainland and bring it back to constitutional rule will the communist peril in Asia be terminated. Then war and turmoil in the world can be solved, and permanent peace will truly become obtainable. It would then be possible to shift the huge military expenses to constructive works for the welfare of the people. And only then will mankind be able to enter into an era in which peace and happiness will prevail.

7. The delicate relationship between the Chinese and the Russian communists:

As I have pointed out, the source of the problems of the world is in the China mainland. It is important to our understanding of the world situation to examine the relationships between the Chinese and the Russian communists. In the past Soviet Russia alone exercised leadership in the communist world. It decided strategy and tactics in the program for communizing the whole world, and executed them. But now its leadership has been seriously challenged by the Chinese communists—Soviet Russia has its plan to communize the world but the Chinese Communists want to have their own way to do the job. The rivalry for leadership within the communist world has developed a complicated and delicate relationship between Soviet Russia and the Chinese communist regime.

With the traits and cultural background or wisdom they possess, the Chinese people will not accept or submit to other people's will and be easily communized. If the 800 million people on the mainland had maintained their traditional Confucian thought and democratic government according to the Three Principles of the People, they would not have been willing to accept an inhumane ideology and would not have been enslaved by other people. At the same time they would not impair other people's dignity and self-reliance.

On the basis of "mutual respect and reciprocity" the Chinese people seek mutual existence and prosperity and to reach the state of "tranquillity of the world." But when they are driven by a communist government they must either submit to the leadership of Soviet Russia or its rival for leadership in the communist world. This will naturally result from the communist characteristics for struggle. And the clash, struggle, and conflict between the Chinese communists and the Russian communists is a sure consequence. In fact, this consequence has become more certain since the fall of Cambodia and Vietnam.

The most painful things which the Maoist communists feel today are that on the one hand they are disturbed and threatened by the anti-Maoist and anti-communist forces which are working for the restoration of democratic and constitutional government on the mainland, and on the other hand, they have to pay attention to the Russian communists who have spared no efforts in their infiltration and subversion against the mainland. Now, they have turned against the Maoist regime and attempted to overthrow it and make the Chinese communist regime part of the Soviet Russia political structure. This struggle is being carried on drastically.

From the foregoing analysis, I believe the greatest danger which the free world could face would be for Mao-red China to become Soviet-red. In that event the 800 million people and vast natural resources on the mainland would be added to the one billion people and already enormous resources of Soviet Russia and its original satellites. The combined population of 1,800 million people and the matchless resources of the Eurasia landmass would then constitute an absolute supremacy over the population of one billion people and the comparatively smaller resources of the free world. The Soviet design of communizing the whole world might well be realized.

If the free world is unaware of this latest danger and still adopts the "balance of power" strategy, and attempts to use "negotiation instead of confrontation" measures to maintain the present status quo and hang on, it only gives the communist bloc the precious time it needs to consolidate its ranks and reconcile differences within its ranks. If this work is accomplished and the Chinese communist regime is made part of Soviet Russia, that will be the time when the free world will no longer be able to withstand the irresistible aggression of the united communist world and can only give up.

And I also believe, mind you, that the possibilities of the Chinese communist regime becoming a part of the Soviet Union are far greater than the chances of it becoming a member of the free world through the vain efforts of some to curry favor with the Chinese communist regime in an attempt to lure it to the free world. And the speed in the first case will be greater than in the second.

Today, we are witnessing the Chinese communist regime growing gradually in strength. It grows itself and it extends its strength outside its own territory continuously. If this enormous Chinese communist strength and influence one day becomes an integral part of the Soviet Union, then the

strength the Chinese communist regime has developed and the sphere of influence it possesses today is also the strength and sphere of influence of the Soviet Union tomorrow. Is this still what the free world which professes to believe in "balance of power" can stand for and want? So, you see, suppositive "Balance of power" is the surest way to expedite war. It is also a foolish act, so to speak, "to tolerate a latent dangerous disease for himself to suffer at the end."

Now, let us consider the question whether a direct military clash will take place between the Chinese communist regime and Soviet Russia. First, if the Chinese communist regime is very much weaker than than Soviet Russia, the former will be controlled by the latter and confrontation and conflict will be impossible. Second, if the Chinese communists gradually grow in strength, the Soviets will either strike before the Peiping regime has grown powerful enough, for a major threat, or force a showdown at the time "balance of power" is almost reached by the Chinese. Soviet Russia will not tolerate the growth of the Chinese communist regime in strength. Here again is the proof that to strive for "balance of power" is the "detonating cord" of a war.

However, the Soviet Union is fully aware of the fact that if it rashly marches its military forces into the China mainland for a show-down with the Chinese communist regime, their combat strength will be consumed in the mutual destruction and they will give the free world an opportunity to profit from the situation as a proverbial fisherman. (Referring to the story in which a fisherman is benefited by a kingfisher fighting a clam.)

For this reason, although conflicting interests do exist between the two communist regimes, the outburst of a major war is decidedly not likely. And the fact that no major war has burst out between them is unmistakenly indicative of their delicate relationship of being complementary to each other in their respective sinister designs against the free world. In fact, they are, in the manner of a mimic play, both marching toward the free world at this opportune moment. And the victim is stll the free world.

From this we can see that the fact that both of them plotted against the free world will never become the cause for them to have a show-down with each other. Their real show-down will have to take place after they have between them communized the nations of the free world successively and have jointly communized the decisive area completely. They then might throw everything into a show-down to decide which one is going to be the master of the world. Indeed, the free world and the whole of mankind would fall victim to their inhumane attempt to build a world slave empire, but the players with fire—the communist regimes themselves, would be involved in the same ruin.

PART II—THE IMPORTANCE OF TAIWAN TO VARIOUS NATIONS AND AREAS

As I have reviewed and analyzed the world situation and global strategy, here and there I have pointed out the importance of the Republic of China in the global picture. Now, in this second part of my talk, I will point out the importance of Taiwan—the seat of the Republic of China, to various nations and areas specifically.

1. To North and South America and especially to the United States:

Taiwan is located at the central part of their forward post line in the west, namely, from Japan to Singapore. Since the super powers are naturally unwilling to involve themselves in a ruinous nuclear war, the United States cannot depend on its defense bases in Central Pacific or on its submarine forces only. Missiles will not solve problem under these circumstances and aircraft carriers are rather vulnerable. Consequently, the chain of islands and peninsulas along the coast of East Asia from north to south has become not just a Forward Post Line or Early Warning Line, but actually the westerr front line of defense for the Americas. I would call it the "ESJAY Line" (from Singapore to Japan). With the island of Taiwan standing at its center. Therefore Taiwan is a Strategic Point for Americas' security in the west.

2. To Northeast Asia, especially Japan:

Taiwan is the key to Japan's western strategic flank along her "Maritime Safety Zone" leading to her National Security Line in the south. For although Japan has based her strength on industry and trade and made great wealth through them, yet she depends on imports for the most of her raw materials. Her industrial products must be shipped out to the world markets by means of sea transportation. Had Taiwan fallen into the hands of Japan's adversary, the fate of Japan would have been at its mercy.

3. To Southeast Asia:

Taiwan is located at the critical strategic point on the farthest northern edge facing the direction of possible aggression where the attacker must pass and, therefore, the defender must hold. When Japan launched her offensive toward Southeast Asia in the last war, she used Taiwan as the base of operations. For this reason, whether Taiwan stands on the side of the free world becomes the key factor on which to decide the fate of the target area.

4. To Australia and New Zealand:

The ties of Australia and New Zealand to Asia and the Americas depend mainly on whether Southeast Asia is under friendly governments. The consequences of Taiwan's falling into hostile hands, will bring Australia and New Zealand to isolation from Asia, and even from the Americas as well. Taiwan is obviously the key thereto.

5. To the Indo-Chinese Peninsula:

Taiwan can be used by the free world as the base for the forces that will threaten the strategic flank of any enventual aggression launched from the Indo-Chinese area or north of that vicinity southward into Malaysia and Singapore. Therefore, Taiwan can also be used as a base for the free world to support forces for the recovery of Vietnam and Cambodia.

6. To the naval strategy for the Pacific and Indian Oceans:

Since the area of Southeast Asia (including countries such as Singapore, Malaysia, Indonesia, Thailand and Burma) commands both shores of the Malacca Strait, it becomes the key which will either facilitate or prevent a timely concentration of the navies of the super powers in the Pacific or Indian Oceans. The Indian Ocean has now become more important for the free world, especially because of the characteristics of the strategic bombers B-1 and the Air-to-surface missiles Harpoon. They can reach any part of the Indian ocean area from Diego-Garcia Island, for the Russian influence has already been extended almost all along the African and Asian-Indian coasts. And Taiwan is again the key that determines to which side Southeast Asia will sway.

7. To the Pacific Fleet of the Soviet Union:

Since the Russian Pacific Fleet is based in the vicinity of Vladivostok, even if it might be able to break through the blockade in the Tsushima Strait (or Korean Strait) between Korea and Japan, it still would be unable to escape the attack by Free World Forces which awaited it in Taiwan waters. Should it attempt to force its way southward through the area, it would have to fight a showdown battle. Should it attempt to make a left turn and head for the Pacific Ocean, its strategic flank would be seriously exposed to this area. Therefore, it would be a very imprudent strategic blunder for the democratic world to give up the strategic advantages which Taiwan possesses.

8. To Soviet Russia:

Both the Soviet Union and Communist China have arrayed their million-man-strong ground troops along their Siberian and Outer Mongolian border and they also have amassed large numbers of missiles and air force units for the confrontation. At present, the Armed Forces of the Republic of China have immobilized at least 600 thousand Chicom forces in the southeast part of the China mainland and made their re-deployment on the northern border impossible. If it were not for the immobilization of the Chinese Communist forces by the Republic of China, the numerical superiority of the Chicom forces over the Russian forces on the border would amount to 1.5 to 1.

The growing-up of the Chinese Communist regime on the mainland and the increase of Chinese Communist forces on the Chinese-Russian border tend to spur Soviet Russia to take preemptive military measure—in Russian term, a preventive war. However, if the China mainland is under a democratic government, the Soviet Union will not initiate any form of military attack. In such a case, Russia can still employ her customary infiltrative and typical subversive designs, and need not take military actions in a hurry.

But now the China mainland is under the Communist regime. Moreover, it is involving the Soviet Union for leadership in communizing the world. The Chinese communist regime will pose a greater threat to Russia when it becomes sufficiently strong, which Russia will not tolerate! However, as I mentioned previously, the Soviet Union in order not to give the free world the profit of the proverbial fisherman, mostly likely would delay the show-down until the whole world has been communized. If it should decide to take a preemptive action, it will most likely attack the Chicom regime on the mainland before it gets too strong. For only then will the Soviet Union have absolute certainty of success, even without having her western front exposed to the West European forces for too long a period. The aggression on the China mainland by Soviet Russia will have the following strategic consequences:

a. To the Pacific and Indian Oceans:

The Russian navy will be able to move its Pacific Fleet southward and base it somewhere along the east coast of the China mainland, or along the northern portion of the Chinese coast. The Pacific Ocean will then become wide open to the Russian fleet, which will be in a position to constitute a menace to the countries on the continents of America, Australia, Asia and Africa bordering Pacific or Indian Oceans.

b. To Europe:

When Soviet Russia has accomplished her aggressive policy in the East, she will then direct her offensive to the West. Consequently, Western Europe will become her next strategic objective. Hence any action or activity, purposely, or unknowingly, that would strengthen the Chicoms or raise their international prestige, will eventually stimulate the Soviet Russia for an earlier preventive war and launch her offensive on the China mainland. The free world should observe the consequences that I have just mentioned.

9. To the overseas Chinese:

The attitude and ideology of the overseas Chinese are key factors as to whether they would be constructive or destructive to the countries or areas in which they reside. The larger the Chinese population in their country or area, the deeper the influence. Their present attitude and belief will be highly affected by the type of government in Taiwan. Only when the China mainland is recovered, may the governments and peoples of the various countries or areas where over-

seas Chinese reside be free from worrying about this problem, and have a guarantee of their security.

10. To the recovery of the China mainland:

The democratic government of the Republic of China and the freedom and prosperity enjoyed by the people on Taiwan are the base on which rest the hopes of the people on the mainland. The promise given to them by the late President Chiang Kai-shek—the recovery of the mainland and the reconstruction of new China under the Three Principles of the People—has especially fostered their fortitude and the determination to fight against communism. Kinmen and Matsu, the two islands off the shores of the mainland, are the media through which the Republic of China has been able to keep their hope alive. And above all the name of Republic of China is the strategic key to the recovery of the China mainland! This I will explain in more detail in the next point.

11. My last point, but also the most important point of all. To the security of the world as a whole:

Before I go into the eleventh point I would suggest that we should take a quick look at the analysis of the postures of the free world and the communist world in the light of the three essential elements of war and the explanation of the three geostrategic theories—see appendices 1. and 2.

As we must be aware, the communist world was entrenched in the heartland of the Eurasia land mass from the beginning, and the high seas are open to everybody. Therefore, the fate of the free world will be decided on the rimland. I have pointed out in the first part of this talk the actions the communist bloc has taken in an attempt to dominate the rimland by an envelopment. The industrial base of the free world—Western Europe, would be enveloped after it dominated Asia. If the rimland supremacy struggle took place in Europe, the western arm of the crescent, or in the Middle East, the southwestern belly of the same, it would draw the attention of all European nations and the United States, and enormous manpower and capital would have to be thrown in by both super powers. The possibility of success to either side in such a conflict is difficult to predict. Moreover, the risk of setting off a world war, and above all a total nuclear war, is great.

If the struggle took place in Indo-China, the Southeastern belly of the new moon, or in the China mainland, the eastern arm of the same, then whether the China mainland would be drawn to the democratic world or to the totalitarian world would become the center of the question. If the democratic world lets the China mainland remain under the communist control, then the possibility for the China mainland to fall into the fold of Soviet Russia again is obviously greater than the possibility for it to join the ranks of the anti-totalitarian and democratic world. When the totalitarian world in the heartland encroaches on the sphere of the democratic world, it is their entering the high seas and, therefore, it does not constitute an aggressive act as defined in international law. But any attempt of the democratic world to encroach on the sphere of the totalitarian world will be considered as an aggression on the territories and air spaces of the opponent. This is not permissible in international law. This is a disadvantage which the democratic world must admit. This is also the reason why a war between the East and West European countries will most likely not occur.

Fortunately, East Asia, or the eastern arm of the half moon, is in the territory of China where the free world has a great asset, the Republic of China. In the first part of my talk I asserted that the chances or possibilities for the Chinese communist regime to become a member of the Soviet Union are far greater than the chances for it to become a member of the free world if free world nations vainly curry favor with the Chinese communist regime. But the case is different when the Republic of China is brought into the picture.

Let us now make a comparison between the efforts made in the name of a legitimate sovereign government, the Republic of China, to recover the mainland and to reestablish the democratic form of government, and the efforts to sovietize the China mainland. The former is naturally easier than the latter. The restoration of the China mainland to our national constitution and reestablishment of democratic government on the China mainland are matters of existing internal necessity for the Chinese people. The nations of the free world must agree, or at least not oppose. As to the pursuit of freedom and happiness by the people on the mainland, it is altogether common to human wants and nature.

The facts are numerous and countless, and known to all. According to Chicago's statistics and official reports published in Chicago newspapers, there have been an average of one uprising in every three minutes. I need not go to detail here, but I do want to point out that after one quarter of a century before we moved out from the mainland and another quarter of a century of sad experience at the price of blood after we came over to this island, the people on the mainland cherished more than ever the Constitution of the Republic of China based on the Three Principles of the People; namely: of the people, by the people, and for the people. In fact, the Republic of China with her present seat in Taiwan is the very symbol, hope, and guarantee for the pursuit of happiness by the people on the mainland.

It will be considered as an aggression when any nation other than the Republic of China launches an attack on the China mainland. As I mentioned at the end of Point 10, the name of the Republic of China is therefore the strategic asset for the recovery of the China mainland. This truth is certainly realized throughout the totalitarian world. Any attempt to eliminate the name of the Republic of China, therefore, is a deadly blow to the Free World.

Let me recapitulate: please don't forget, my dear friends, so long as the China mainland remains Mao-red, it has a larger probability of becoming Soviet-red! Hence, the return of the China mainland to the fold of the democratic world is THE KEY to a bright future for the entire world. And the job of bringing the China mainland back to the democratic world can be successfully accomplished only under the name of the Republic of China. If the leading powers in the democratic world should remain inactive and let the China mainland fall into the hands of Soviet Russia, they can make no excuse for their tragic blunder before history.

My dear friends, these are the strategic significances of our beautiful island, Taiwan. And these are the contributions we can offer to the Free World.

APPENDIX I—BRIEF INTRODUCTION OF THREE IMPORTANT GEOSTRATEGIC THEORIES—THE BASIS OF THE ARGUMENTS IN THIS PRESENTATION

1. The sea power theory

The Sea Power Theory is advanced by an American, a great naval officer, Alfred T. Mahan in his book, "The Influence of Sea Power upon History, 1660–1783". This theory is the result of his thorough investigation of general and naval history from the middle of seventeenth century to the close of the Napoleonic Wars. The period from 1660 to 1783 was selected because it marked the rise of modern European States and their struggle for existence and supremacy.

From his intensive study of the era, Mahan concluded that there had been a continuing rivalry for control of the seas; that control of the pathways of seaborne commerce was, and likely would always be, the key to world power; that sea power is more decisive than land power, and clear distinction should be drawn between sea power and naval power. Sea power includes not only military strength to rule the sea, but, equally important, the peaceful commerce and shipping from which alone a military fleet naturally and healthfully springs, and on which it securely rests. An expanding foreign commerce is essential to national power and prosperity. To compete successfully in the world-wide struggle for markets, a nation must have a strong merchant marine and a powerful navy for its protection.

A definition of sea power, therefore, includes naval forces and naval bases around the world, plus merchant shipping and seaborne trade. Accordingly, Mahan pointed out, there are three elements constituting a nation's sea power: capacity for manufacturing production, its own merchant shipping with a navy sufficient to protect it, and markets to absorb the surplus products.

2. The heartland theory

The Heartland Theory was first introduced by Sir Halford J. Mackinder in his famous paper, the Geographical Pivot of History. It was crystalized in his book, Democratic Ideals and Reality. In Mackinder's view, the age of dominant sea power had gone and the age of land power had arrived. He held that the natural center for the new epoch is in the world's greatest land mass, the immense area of Eurasia. He termed it "the pivot region of the world's politics," or "the heartland" set in the center of the "World Island." The heartland is the central region of Europe and Asia, remote from and beyond the control of sea power. It includes the Baltic Sea, the navigable Middle and Lower Danube, the Black Sea, Asia Minor, Armenia, Persia, Tibet and Mongolia.

Outside the pivot area, or heartland, Mackinder defines two "crescents." In a great "inner crescent," are placed Germany, Austria, India, and China, while in an "outer crescent" are found Britain, South Africa, Australia, the United States, Canada, and Japan.

In reality, the power of the heartland was not equivalent to that of the peripheral states, but Mackinder voiced his greatest fear, "This might happen if Germany were to ally herself with Russia. In that event, the heartland state could expand over the marginal lands of Euro-Asia, use vast continental resources for fleet-building, and the empire of the world would then be in sight." Mackinder himself reduced his Theory to the following often-quoted formula:

"Who rules East Europe commands the Heartland; who rules the Heartland commands the World-Island; who rules the World-Island commands the World."

3. Rimland theory

The Rimland Theory was advanced by Professor Nicholas John Spykman. From his works we are told that through a thorough study of the location of his country—the United States—he became convinced that the security policy of his country was unrealistic and inadequate; and that in ignoring the geographic factor she was overlooking a very important source of light on the security.

Professor Spykman also studied carefully the U.S. policy of hemisphere defense, which was strongly advocated in the United States before the Second World War as the best means of escaping involvement in Europe's wars. Superficially there seemed to be much in its favor. The broad expanses of the Atlantic and Pacific Oceans appeared to provide almost impregnable barriers to invasion from Europe or Asia, and the immense supplies of raw materials in the western hemisphere seemed to free Americans from de-

pendence on outside sources. It seemed that all the Americans had to do was to keep the Panama Canal open and then sit back and wait for an invader to approach within range of their guns.

The analysis made by Professor Spykman showed conclusively that this was a dangerous illusion. Against a determined attack launched by a power or group of powers controlling the European mainland, the chances for the U.S. to defend herself on her side of the Atlantic were small indeed. Only if the British fleet were in complete control of the Atlantic and Pacific, and if the United States was able to use the British Isles as an advance base against the continent of Europe could she be at all sure of her chances of survival.

The point he maintained was that the most important single fact in the American security situation is the question of who controls the rimlands of Europe and Asia. Should these areas get into the hands of a single power or combination of powers hostile to the United States, the resulting encirclement would put the United States in a position of grave peril, regardless of the size of the US Army and Navy. Therefore, the US should watch the situations in Europe and Asia and adopt a foreign policy which would prevent the threat from arising in the first place.

APPENDIX II.—A BRIEF ANALYSIS OF THE POSTURES OF THE FREE WORLD AND THE COMMUNIST WORLD IN THE LIGHT OF THE THREE ESSENTIAL ELEMENTS OF WAR

As military strategists generally consider geography, weapons and manpower as the three essential elements which determine the success or failure of a war, a brief analysis of the postures of the free world and the communist world in the light of these elements is made below:

1. An analysis in the light of geography:

As the great physical features of geography cannot be altered by human ingenuity, a certain area with its control of a geographical location frequently exercises pivotal strategic influence upon its neighboring countries or areas. Such geostrategical advantage may make this position of a country or area especially salient in international strategic positions and therefore result in special relationship and influence which often gives rise to alliances and wars.

History abounds with examples. For instance, the strait of the Dardanelles is the only outlet to the Mediterranean for the Russian fleet in the Black Sea, and the Crimean War was set off as a result of the struggle for its control. The lowland area of West Europe (Holland and Belgium) has since ancient times been called an arena by the European powers. During the past several centuries the lowland countries area has frequently provided battlefields to soak with the blood of the European youths. A Kingdom of Belgium, with both Dutch and French as official languages, was planted between Holland and France to serve as a buffer among the powers. In the past, when Britain was in possession of Gibraltar and the Suez Canal, she was able to maintain supremacy in the Mediterranean and her navy was thus able to maneuver its fleet in the Atlantic and Indian Oceans with the shortest route.

Historically, Bohemia has always been an object of contention between the countries of East and West Europe. One who controls it may be able to wield one end of it, so to speak, as a sword with the other end as the point aiming at the heart of its opponent. This is why, when the people of Czechoslovakia and Hungary rose in revolt against the communists years ago. Soviet Russia had to betray her ugly face, abandoned her usual trick of using other people to fight her battles and suppressed these revolts directly with her own military forces.

The United States is a country bordering on two oceans. But for the control of the Panama Canal, the short-cut between the two oceans, it would be very difficult for her to mass her navy quickly in either ocean. However, the broad expanses of the oceans are now not a sure defense. The United States must look beyond the waves and find allies on the shores of the two continents to ensure her national security.

The security of the Britain proper is dependent on Holland, Belgium, and northern France as her buffer. And the security of these areas is again dependent on the attitude of West Germany toward the free world. When the German Third Reich turned itself against the whole world in the last war, the strategic significance of these areas became particularly evident. The moment West Germany became a member of the free world and stood at the front facing the totalitarian world, her importance was immediately recognized by the free world and she was amply aided.

The Russian-Japanese War early in this century was set off by Imperial Russia when it turned to the East for an outlet to the sea. The security of Japan proper is dependent on Korea and the northeast provinces of China as her buffer. The security of the Japan-Korea area is, in turn, dependent on whether the China mainland is on the side of the free world or the communist world.

The range of modern weapons has greatly increased and their velocity has also increased in terms of "machs", and air transportation reaches farther and farther with greater payloads and speed. In addition to missiles and satellites, the United States not only depends on the command over the waves of the two oceans but she also must push forward her defense outposts to the far shores of the two oceans, to allow early warning and defense in depth to ensure the security of the continental United States. Both the United States and Soviet Russia have pushed their radar sites as far north as the Arctic region to watch each other vigilantly. Now, both are engaged in competition for supremacy in space. They do so with no other aim than an attempt to shake off the shackles of geography.

With the development of geostrategic and geopolitical concepts since the nineteenth century, the influence of geographical factors upon the employment of strategy has been increasingly appreciated. This, of course, includes grand strategy, national strategy, military strategy and field strategy. Consequently, new theories have made their appearances one after another. The more important ones include Mackinder's Heartland Theory, Mahan's Sea Power Theory, and Spykman's Rimland (Coastal Area) Theory. These theories are used here to evaluate the free world and the communist world:

a. According to Mackinder's Heartland Theory, the land mass of Europe and Asia is the "world island." The central region of it is the "heartland." "Who rules the heart land commands the world island; who rules the world island commands the world," is often quoted. Since Soviet Russia and its satellites are entrenched in the heartland, under this theory, the supremacy is apparently on their side.

b. In his Sea Power Theory, Admiral Mahan advocates the domination of land with sea power. He thinks that since three fourths of the surface of the earth is covered by waters, one who controls the seas has in his hands the domination of the world. Since the free world, with the United States at its center so far can still barely control the seas, it may be said, under Mahan's theory, that supremacy is still on the side of the free world.

c. In the Rimland Theory, Professor Spykman emphasizes the significance of the rimland around the world island. He said: "one who wants to control the fate of the world must control the Eurasia land mass, to control the Eurasia land mass he must control the rimland." In other words the intermediate region between the heartland and the marginal seas is the pivotal area to determine one's global strategic posture. The inland needs outlets to communicate with the outside world, and the navy needs ports and harbours for mooring, maintenance, repair, and supply for the ships. Therefore, one who possesses supremacy in this region naturally has supremacy both on land and over the seas. For this reason, the free world and the communist world have contended for supremacy in this region in the last twenty-five years, and neither side has yet won supremacy decisively in this region.

2. An analysis in the light of strategic weapons:

In the military sense the term, decisive strategic weapons refers to the stockpile of nuclear weapon systems and warheads. According to statistics published in the U.S. News and World Report in 1973, the United States and Soviet Russia have in their possession more than one hundred billion tons of nuclear explosive power. Soviet Russia has nuclear warheads of heavier megatons (the heaviest nuclear warhead that the Soviet Russia has is in the 25 megaton class while the heaviest nuclear warhead that the United States has is only of the 10 megaton class). The United States nuclear warheads are several times greater in numbers than those of Soviet Russia. In the delivery systems, Soviet Russia has the lead in ICBM (land-based) and AMM, but the United States still maintains a considerable lead in the performance of the missiles (such as multiple-warheads-independent-target-ability, "MIRV", and accuracy), in underwater-launched missiles, and in the strategic air force. When all these are considered, the two sides are roughly equal.

3. An analysis in the light of manpower:

Let us disregard the vast manpower on the China mainland in our analysis for the moment. We can see that the populations of the United States and the Soviet Russia are each above two hundred million. Their difference is very small. The population of the United States, plus that of her allies (with mutual defense treaty relations) such as the NATO countries, CENTO countries, SEATO countries, ANZUS Pact countries, countries in the OAS, and some bilateral treaty countries total around one billion. The population of the Soviet Russia plus that of her Satellite countries and treaty related nations like Syria, Iraq, and India also total around one billion. Both sides are also fairly balanced.

CONCLUSION

From the foregoing analysis and comparison based on the three factors, neither side has a decisive advantage over the other up to the present. Consequently, the China mainland with its eight hundred million population has become especially significant. Given no dissolution of partnership and neutralization of strength within ranks at either side, the eight hundred million population, no matter to what side they may sway, will have decisive impact on the present bi-polar confrontation.

This may be discerned from the fact that although the Chinese Communists have a standing military force far exceeding that of the United States and roughly equal to that of the Soviet Russia and also some nuclear weapons (the number is undoubtedly very small), yet they have never bragged about these things. Instead, they have frequently shouted about their "eight hundred million

people," and "two hundred million militia," and called them a "super nuclear bomb." The strategic significance of their psychological war need not be questioned. Regrettably, the appeasers in the democratic camp have only negatively recognized the "eight hundred million people" as a fact, an awful fact, but have not had the good sense to make them tip the balance to our favour.

THE STRATEGIC SIGNIFICANCE OF TAIWAN, PART III—A BRIEF ANALYSIS OF THE U.S. STRATEGY IN THE ASIAN, PACIFIC AND INDIAN OCEANS AREA IN THE FUTURE

The fall of Vietnam and Cambodia has aroused a deep feeling of defeat and humiliation in every quarter of the United States, and reassessment of the situation by the President, the Secretary of State, Secretary of Defense and the Congrses. Will the United States still recognize the fact that Eastern Asia and Western Europe bear strategic significance to her, and that, emphasis should be placed on Eastern Asia? What will be the U.S. strategy in the Asian Pacific and Indian Oceans Area in the future? And what is the position of Taiwan in the U.S. overall strategic picture? These are the questions in the minds of people in this part of the world. The following analysis is an effort to try to answer these questions:—

1. The United States is situated in the New Continent bordering on two oceans. Yet the broad expanses of the oceans are now no longer the bulwarks to ensure her safety and her world-wide interests. The key to her safety and interests incontrovertibly lies in who controls the Eurasia land mass, the so-called World Island. To prevent her safety and the interests of her people from being endangered by hostility and aggression coming from the Eurasia land mass, the United States must seek and ensure the full cooperation of the nations beyond the two oceans in Western Europe and Eastern Asia. Therefore, the safety of the United States and these two areas is one and inseparable.

Should the United States consider any pull-out from Northeast and Southeast Asia, the damage done to her security would be as serious as for her to pull out from Northwest and Southwest Europe. To look at the Asian portion of the picture, Taiwan, the seat of the Republic of China which is situated at the pivotal point linking the Northeast and Southeast Asia, is closely related to the security of the United States, especially since the fall of Vietnam and Cambodia into the hands of the communists, the strategic significance of Taiwan in relations to U.S. global strategy has become even more evident.

2. After glaring debacle in the Indo-Chinese Peninsula, the United States can only maintain and increase her credibility by maintaining positive stands in Western Europe and Eastern Asia. It is very evident that the United States has made new commitments in Northwest and Southwest Europe, and it is also clearly seen that in Northeast and Southeast Asia some contacts are being made. However, if firm measures should not be taken today toward the pivotal strategic point—Taiwan, the damage to her overall strategic concept resulting from the omission would not be easily retrieved tomorrow.

3. Since the destiny of the United States is dependent on the fate of the Eurasia land mass, she has to watch vigilantly over her security both in the East and in the West. But even with her tremendous national strength, she still cannot afford either to divide her strength equally between the East and the West or to conduct war in two fronts. She must place her main efforts properly and not pursue two strategic objectives at a time. It is, therefore, an important decision in strategy for the U.S. policy-makers to select and determine the priority of one objective among many objectives.

President Ford has visited Western Europe recently. If the emphasis of U.S. strategy against communist aggression is placed in Europe in the future, it would be most desired by the Russian and Chinese communists. This is because when the attention is directed to Europe, the defense in Asia will naturally become less effective. Therefore, they may well be able to continue their aggression toward South Asia and Southeast Asia, particularly at present when there is nothing which will give rise to a war between Eastern and Western Europe. Soviet Russia is very aware of the fact that if a war takes place between Eastern and Western Europe, both sides must pour out tremendous resources, in order to ensure certainty of success. And she, besides, would have to fight the battle herself.

In view of the fact that the democratic nations in the West apparently have never had the idea to march eastward, Soviet Russia is much concerned over the growing Chinese communist challenge to its posture in the East and is very eager to extend its power and influence in Asia. The United States, therefore, should place her emphasis in Asia. In this connection the United States efforts to develop bases in Marianas Islands are certainly very significant.

4. Should the employment of ICBM and strategic bombers underlie the concept of defense by the United States, then the overall picture should be viewed from the two poles. As the United States and the Eurasia land mass are all situated in the northern hemisphere, it is easier for either side to achieve maximum effects of an attack if it is delivered across the north polar region. The attack will be far less effective if it is delivered across the south polar region simply because the distance is so great. Therefore, both sides must extend their power into the Indian Ocean and that is exactly what they have been doing. Consequently, the north polar region and the Indian Ocean have become another two focal points for the two sides in their strife.

To meet and to achieve the highest performance of the strategic bomber B–1 and missile Harpoon, the United States must obtain bases; if it is not possible to get bases on the land of South Asia, they should be at least in the Indian Ocean, from which bombers can reach any important area in the Ocean or along its coast within three hours. Hence she must maintain her naval potential there.

To ensure timely concentration of her navy in the Indian Ocean, the United States has to appreciate the strategic significance of the two waterways on the west and east sides of the ocean, the Suez Canal and the Straits of Malacca. To ensure the safe, uninterrupted passage of her navy through the Straits of Malacca, the United States must do her best to enhance the capabilities of Malaysia, Singapore, and Indonesia to guard this waterway. If necessary, she herself must be ready to intervene.

And finally, to ensure her safe and uninterrupted passage through this "Oriental Suez" (the Straits of Malacca), at the mouth of the "Oriental Mediterranean Sea" (the South China Sea), the United States should take effective measures to enhance the strategic postures of the "Oriental Gibraltar" (Taiwan), and the "Oriental North Africa" (Indonesia). As one can see from the map, these points are glaringly similar both in corresponding geographic location and in strategic significance to their counterparts in the West.

5. As it has always been a fundamental principle for the United States to avoid an all-out nuclear war, she must prepare herself for a conventional war and a local nuclear war (tactical) if necessary. Based on the requirements of her global strategy some have observed that the emphasis of the US strategy in the Asia and Pacific area will be placed in Northeast Asia in the future—that is, a defense line with Japan as the center, Korea as the forward post, and Taiwan as a supporting base.

Of course, this is but one of the lines in her defense concept. There are five lines which can be considered as the national security line (the forward edge of the area which would provide defense security for the United States). The farthest and theoretically most ideal line runs from the borders of the northeast provinces of China along Outer Mongolia to Sinkiang province. Since the Soviets can run over it any time at their convenience, this line is ruled out. Therefore, one has to consider a second line.

The second line runs from Peiping through Lanchow to Tibet. As this line is still within the territory hostile to the United States, it may be well to dismiss it. So, now one has to look for places on the sea. The third line, or the first one offshore, runs from South Korea through Taiwan to the Indo-Chinese Peninsula. This line has been known as the "containment line" for many years. It was weakened and broken on its southern end only recently with the fall of South Vietnam and Cambodia and the consequent diminishing of American influence.

The fourth line from Japan through the Ryukyus to the Philippines may be thereafter considered and has been considered by some people now as "the main defense line." However, an Asian defense line is only safe when its out-posts, namely, South Korea and Taiwan, are secured. The fifth or last line, which was conceived recently as a fallback line, involves mainly the U.S. trust territory in the Western Pacific. It runs from the Marianas Islands to New Guinea. As the United States has permanent interests on the Eurasia land mass, and as these islands were used by her in the last war to fight her way back to Asia, obviously, this line can only be considered as her last resort.

In order to respond to hostile actions from the Eurasia area with her navy, air forces, and missiles from all directions, the United States must have a well-studied strategic concept. As I have pointed out, the Indian Ocean is closely and strategically related to the Asian-Pacific area. The United States must keep up with her dominating power in the Indian Ocean, to block Soviet Russia from coming through the Indian Ocean and breaking the crescent on its belly. If the United States is to dominate and control the Indian Ocean, it is absolutely necessary to secure Singapore, Indonesia and Taiwan. They naturally become key strategic points which the United States cannot afford to give up.

6. As most of the troubles of the world today take place in the rimland of the world island, Soviet Russia and the United States can in no way stand aloof. This is especially the case where their own security is involved. And as both sides are unwilling to let these troubles develop into a direct clash between themselves and result in an all-out nuclear war, they cannot avoid intervening in the conflicts. Consequently, protracted and fruitless negotiations have taken place.

This protracted period of indecision is decidedly advantageous to the communist world. During this period the United States cannot relax her military preparedness, and the resulting oppressive financial burdens will adversely affect her economy. In time, the psychology of her people and the stability of her internal political situation will also be adversely affected. Such being the case, two consequences may follow: The people may become impatient of their oppressive economic burdens and are forced to take risks of a show down, thus setting off an all-out world war. Or they may resent their

government to the extent that a revolution or civil war may result. Whatever the consequences, they will be equally unfortunate both to the United States and to the whole world (both peoples without and within the iron curtain).

7. The United States, in the present situation, may have to continue mediation to mitigate the tensions in the world caused by local problems, to see that the further development of regional conflicts will not be favorable to the Reds. The regional conflicts will remain unsolved and the continuous tension will still go on and even grow tighter than before. In the long run, it will become very disadvantageous to the democratic world, as described in the last paragraph. The United States therefore, on one hand, must seek to ease local conflicts and help her allies to blockade the Heartland holders from coming out through these regions. At the same time she must direct her focal point in solving the basic problem by removing the real source of trouble—the super power and father of all communists. The most effective measure is, as a Chinese proverb sagaciously says: (the best way to stop the soup boiling in a cauldron is) "to remove the fire under the cauldron." In this connection, the most effective and also the only practical concept is to bring the China mainland back to democracy, thereby making a new order of world peace possible. The long coast of this enormous land mass covers a great section of the rimland, or the eastern arm of the "crescent" around the Eurasia World Island. Its immense manpower can turn the balance of 10:10 between the Free and Totalitarian World to 18:10 or 10:18—to one world or the other by change in politics. With the China mainland, a great strategic asset, on its side the free world will not only regain its security but also gain a much higher potential for creating a reasonable new world order. Mind you, there are only red regimes but never red people in the entire world.

The task of bringing the Chinese people on the mainland back to freedom can be performed through their legitimate government, by supporting a revolution on the mainland, strengthened by a counterattack from the island bastion on Taiwan. This is the only approach which will not arouse any claims by the CHICOM as being an invasion. The free world does not have this advantage elsewhere on the rimland.

8. In meeting the present world situation, the United States should not be deluded by the outward signs of power of the communist world and neglect its inherent vital weaknesses, which can be used to the great advantage of the free world. First, not any government of a communist regime has ever had the approval and support of the people. It is maintained by police force. The people are not satisfied with the political, economic, and social systems of communism and psychologically they are against the communistic conception of life. If the people of any communist regime were given any opportunity to throw off their communist overlords they would do it right away. No communist regime can be exempted from this rule, particularly not the CHICOM.

Second, there is no communist regime that does not put up a belligerent outlook, but in fact each of them is afraid of being directly involved in a hot war, and especially when it would be conducted on its own soil. This is because the people would then seize the opportunity to rise in revolution against the communist regime and overthrow it. "Iron curtain," "bamboo curtain," and Berlin Wall all these are concrete examples of the communist inferiority complex growing out of this fear.

CONCLUSION

1. Based on the foregoing analysis, we may say that the measures taken by the United States to develop bases in Tinian Island, the southern point of the Marianas Islands, may be considered as a strategic strengthening to the APACIN (Asian-Pacific-Indian) area. The United States first has to do her best to urge and help the nations in the APACIN area to promote their political stability and enhance their military preparedness. Then she must go further to knit these nations together in an alliance, so that they may be able to use their united strength in a delaying action in the event of a war, to give the United States enough time to maneuver her air forces and navy for a timely concentration. Thus, her ability to exploit fully the capabilities of strategic bombers and missiles from the south and north of the world-island may be assured.

2. We, the government and the people of the Republic of China, shall stand firm on the side of the free world. During this transition period in which the world situation is held in suspense, we must remain self-reliant, resolute, determined and worthy to cooperate fully with our allies. Moreover, we should place our emphasis on supporting the people on the mainland of China to rise in an all-out revolution against the communist tyranny, thereby to accomplish our task of recovery of the mainland on which a new era for the whole world will depend.

3. The democratic nations should understand the strategic implication of Lenin's statement, "the shortest route between Moscow and Paris is via Peking and Calcutta." The free world must realize the fact that the China mainland is still the key to the problem of the world today.—All troubles of the world started here and their solution can also be found only here. The name of the Republic of China is a great strategic asset of the free world. It should not be overlooked and should be used by it to turn the present "balance" or "confrontation" decidedly to its favor.

4. The people in the countries with communist regimes are all against communism psychologically. Therefore, notwithstanding their belligerent outlook the communist regimes cannot stand the risk of the strategically deadly consequence of a war. The free world should realize these inherent weaknesses of the communist regimes and take advantage of them fully.

THE STRATEGIC SIGNIFICANCE OF TAIWAN PART IV—AN ASSESSMENT OF THE ISLAND CHAIN DEFENSE STRATEGY IN THE WESTERN PACIFIC

A China Post Interview, 20 February 1976.

General Wego W. K. Chiang recently gave a speech to the 36th meeting of the Constitution Research Committee of the National Assembly on "An Assessment of the Island Chain Defense Strategy in the Western Pacific."

In his speech he emphasized that he did not agree with that unsound and incomplete strategic concept of the Island Chain Defense strategy now asserted by most American war strategists because defense is only a supplementary measure either to support an offensive on the major front, or to gain time for the preparation of offensive as soon as superiority is established. General Chiang said, defense can never solve the problem especially when the enemy has a definite determination of destroying the democratic system of the free world—Soviet Russia may have revised her tactics or even strategy, but not her strategic objective to communize the world, and the CHICOM is her competitor. General Chiang explained to the audience that if not for the support from Taiwan area to ensure the security of maritime safety zone of Japan, Japan is in no way to obtain her energy resources from the Middle East and Indonesia. For this reason, if the United States of America only relies on Japan as the pillar in NE Asia and neglects to realize the strategic significance of Taiwan to SE Asia as well as to the Indian Ocean, the posture that the U.S.A. and Japan managed to maintain can not last long.

To obtain further understanding consequently the China Post sent reporters to General Chiang's office for an interview as follows:

Question: What is the strategic importance of Taiwan in the assessment of the Island Chain (I–C–D) Strategy in the Western Pacific?

Answer: As I have pointed out in my speech at the 36th C. R. C. meeting:

1. U.S.A. must be the leading nation of the democratic world for the following reasons—

a. The national security of U.S.A. is not separable with the defense of West Europe and the some of East Asia. They are relying on each other.

b. U.S.A. is the strongest power among the entire free world.

2. Therefore the most effective way of defending the American Continents is to support West Europe and East Asia.

3. Emphasis should be placed on East Asia for the following reasons—

a. Because Soviet-Russia is focusing her offensive on East Asia, for otherwise her hegemony in the Communist world would be endangered. This is because West Europe is rather conservative and the Red China is aggressive and intends to take over the leadership of communization of the world.

b. West Europe has a much higher potentiality than East Asia and can more easily exploit the concerted action or united strength of the nations therein than those in East Asia for political, economical, psychological as well as geo-strategical reasons, in case if they get invaded.

c. It is much easier and faster for the fleets of both sides (totalitarian and democratic worlds) to get into Indian Ocean from west Pacific than from east Atlantic route. Possession of Indian Ocean and South Asia means the fate of separation or unity of West Europe and East Asia, and the fate of U.S.A.

4. The geo-strategic importance of Taiwan:

a. Taiwan is located at the central position of the ESJAY line, a strategic point on the I–C–D. Taiwan is the utmost southern island of NE Asia and also the utmost northern island of SE Asia. The I–C–D line is obviously the last National Security Line for U.S.A. or the American Continents. Its loss means the opening of both Pacific and Indian Oceans; and falling back to the Mariana Line means at least offering the Russian Pacific Fleet a better chance to get into Indian Ocean prior to the American 7th.

b. Taiwan means the fate of unity of NE Asia and SE Asia. Taiwan protects the west flank of the Maritime Security Zone south of Japan, and therefore ensures also the national security of Japan.

c. Taiwan protects the gateway to the South China Sea—the Oriental Mediterranean.

d. Taiwan is the step stone to SE Asia—the Oriental North Africa.

e. Therefore, Taiwan ensures the security of the Strait of Malacca—the Oriental Suez Canal.

f. Strategically SE Asia has become more important than ever since the fall of the Indo-Chinese peninsular—the Oriental Italy. Taiwan has hence become the Oriental Gibraltar but far more important strategically than Gibraltar at the west entrance of Mediterranean.

5. Geo-economical importance of Taiwan.

a. Republic of China has been in very favourable terms of trade with the free world in many respects.

b. Taiwan is politically very stable and militarily very safe, and therefore an ideal place for international trade as well as investment.

c. The restoration of democracy on the mainland of China means a great release of economic pressure to the free world.

d. Loss of Taiwan will also mean a tremendous loss of energy resources of the free world, since Taiwan bears such a strategic influence on the ME and Indonesia.

6. The geo-political importance of Taiwan:

a. It is easier for Soviet-Russia to communize the mainland of China than to do the same to European nations, because it is easier to turn China mainland from Mao-red into Soviet-red, as long as the free world is leaving it communistic. Once China mainland becomes a member of the Soviet Union again, then the Pacific and also the Indian Oceans will go with it. Even a child can understand what that would mean to U.S.A. or to the whole world. Therefore, to bring the mainland of China back to the democratic world is the solution and the only solution to the free world as well as to all peoples including 13 hundred millions in the areas behind the iron curtain at present.

b. The democratic nations other than Republic of China can not take any direct action for the restoration of democracy on the mainland of China for the following reasons—

(1) When non-Chinese take part in this event they will be accused of interference of internal affairs or even of aggression.

(2) The Chinese communists can utilize that as a good reason to turn the people to fight against aggressors while the people on the mainland are now all on our side and awaiting a real liberation.

(3) When non-Chinese get involved, the Soviet-Russians can also use it as an excuse and move their forces into the China mainland too. This will again mean an opportunity for the Russian Pacific Fleet to move southward and both Pacific and Indian Oceans will become open to them.

c. Therefore the free world can only help themselves by supporting the Chinese people for a revolution through Republic of China, and also by supporting the ROC armed forces logistically. Taiwan is therefore strategically extremely important because it is at present the base of Republic of China and the bastion of the ROC armed forces, and, so to speak, Noah's ark not only for us Chinese but also for the entire world. Elimination of the name of ROC means to destroy the last trump card of the free world's hope.

CONCLUSION

Taiwan bears strategic importance not only in the assessment of the I-C-D but also, in positive sense, in the recovery of the fallen—restoration of democratic government in the fallen countries, especially that of the dignity of human civilization, which I call "The Third Crusade."

ICC REGULATION DESTROYS TRUCKING FIRM

Mr. PERCY. Mr. President, I was disheartened by a recent story in the Washington Star concerning a trucker whose business has been apparently destroyed needlessly by the misguided regulation of the Interstate Commerce Commission.

Since shortly after World War II, James H. Carter, whom I assume is no relation to a certain nominee for national office, operated a moderately large trucking firm. In 1969, Carter purchased from another firm an ICC certificate giving him the authority to transport store mannikins and supplies used in connection with store displays. Carter interpreted this liberally to mean that he could transport anything which could be displayed in a store, and this he did.

When Carter applied for an official ICC interpretation of his certificate in 1972, it was taken as an application to transport practically anything between New York City and any place east of the Mississippi. The ICC investigated Carter, and despite the fact that the firm from which Carter bought the permit had used it as he did, Carter was fined for overstepping and thus violating the terms of his certificate. The ICC decided that the certificate meant to include only mannikins and window dressing, although what it actually said was admittedly ambiguous.

On Carter's application for a broad certificate, the ICC eventually ruled that he was unfit to perform the service he proposed, despite the fact that they had previously fined him for performing that service for over 400 customers. According to Carter, "The ruling put me out of business."

Mr. President, the problem here is that a successful businessman has been financially destroyed and cannot perform a useful service. In a reversal of its usual procedure, the ICC decided in this case to stand by what it meant rather than what it said. It then ruled contrary to commonsense when it decided that Carter could not perform the service he had, in fact, performed successfully for many years.

This case crystallizes several issues concerning the need for, and the proper extent of, Government regulation of private industry. In this instance, the ICC does not seem to have promoted either the interest of the consumer or industrial efficiency and safety. Too often, in cases such as this, regulatory agencies stifle competition, impose costly delays, reduce productivity, and damage industry's adaptability and flexibility. This inevitably leads to some inflated prices and loss of jobs.

I believe far-reaching legislation to reform and make sense out of the overall mission, structure, and operation of our regulatory agencies should be a priority concern of the Congress. Nonsensical and pernicious regulation not only strangles smaller businesses such as Mr. Carter's, but cuts to the heart of even our largest corporations' ability to produce and compete in world markets. If we do not address this terribly important question soon, we face the risk of allowing our productive system to permanently lose its vitality.

During this session of the Congress, Senator ROBERT BYRD and I introduced S. 2812. We think it offers the correct approach to regulatory reform. It mandates a procedure for reform, leaving the actual substance flexible. S. 2812 provides that reform will be comprehensive, covering five broad areas of regulation over 5 years.

Most importantly, the bill requires certain reasonable deadlines for executive and congressional action on reform. If either branch fails to meet its deadlines, there are disciplines built into the legislation to prevent an impasse. The measure provides an incentive for special interests and the agencies themselves to cooperate in this comprehensive, action-oriented reform program.

In this light, I commend the Washington Star and its reporter Stephen M. Aug for his excellent and timely story on Mr. Carter's plight. It is but a symptom of how much in disarray are the regulatory policies of this Nation.

Mr. President, I ask unanimous consent that this article from the September 10, Washington Star be printed in the RECORD.

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

RULING BY ICC DRIVES TRUCKER TO THE WALL

(By Stephen M. Aug)

Here's a case in which the Interstate Commission decided to stand by what it meant, rather than what is said—a switch from the ICC's normal stance of standing by what it said when there is some doubt as to what it meant.

Confused? So is James H. Carter, owner of Shipper's Truck Service, Inc., of Kearney, N.J. He says the ICC's decision against taking literally the terms of his operating certificate has just about put him out of business.

The story of Carter's problems with the ICC, which began in 1972, is "so far-fetched, it's unbelievable," he told a reporter. Carter, who is 56, had been in the trucking business almost all his life, starting out riding across the country with his father, who had an old gasoline-driven truck with electric brakes. "I went all over the United States with my dad," he recalled. "We were hauling general freight, everything."

That was before 1935, the year the ICC won from Congress the authority to regulate trucking. Although his father's competitors eagerly sought and received the earliest ICC certificates assuring them the right to continue hauling whatever they were then carrying without restrictions, Carter says his father never quite understood the need for obtaining an ICC certificate.

Carter himself entered the trucking business on his own after World War II. Starting with one truck, he built up the business his father had left to the point where he was taking in $1.5 million a year in revenues with a fleet of about 15 trucks and tractors.

Then, in 1969, for $30,000 in cash, he bought from another firm an ICC certificate that gave him authority to transport throughout the Eastern United States mannikins and display figures used in connection with store displays.

The second portion of the certificate said further that he could transport "supplies to be used in connection with store displays." Carter says he checked with an English professor at Harvard—whose name he doesn't recall—and determined that the certificate gave him the right to carry virtually any commodity as long as it was displayed for sale in the store. Under this definition, according to the ICC, he transported commodities that included gravel, cleaning compounds, salad oil, tin cans, toys and games.

In 1972, Carter said, he applied to the ICC for an interpretation, which turned out to be an application to haul virtually anything between the New York City area and anyplace else east of the Mississippi.

The application was opposed by dozens of trucking companies already serving the East, which contended that another competitor wasn't necessary.

No sooner had Carter filed his application than ICC inspectors began checking his operation and contended that he was violating the terms of his certificate, because, in effect, he was transporting more than just window dressing. In 1973 he paid a $1,500 fine.

Carter contends that the firm that owned the certificate before he bought it "hauled general commodities and nobody bothered them. We looked up the history of the per-

mit. The commission meant to say 'supplies to be used in connection with manikins and display figures.' That's what they meant to say—but they said 'supplies to be used in connection with store displays.' That makes the permit ambiguous."

After lengthy hearings, Administrative Law Judge Jacob Leventhal ruled a year and a half ago that Carter had overstepped his authority—although the judge said that because Carter was black the agency should consider his race as one factor and give him the certificate he wanted on a three-year temporary basis. This, the judge reasoned, would encourage minority ownership of trucking lines—an area in which the ICC has been criticized by civil rights organizations, which have said the agency has kept minority members out of the trucking business.

Again, the other truckers complained. They said race should never enter into such a case.

Last week the ICC unanimously ruled that the judge was wrong; that racial or ethnic factors should not normally be considered in such cases, and, moreover, that Carter had been operating illegally. The agency ruled that he was unfit to properly perform the service he proposed—despite the fact he had performed it for years and had, in fact, built up a substantial business that served more than 400 customers.

The ICC ruling, Carter said, "put me out of business."

Carter said he has spent about $300,000 in legal fees in the case and, since the matter began, the number of customers he has been able to serve has dwindled to perhaps 20.

Carter isn't sure just what he's going to do next. He says he has spent his life's savings in the ICC case, and has seen his business vanish. "As of right now I am out of business until I talk to my attorney and find out what I'm going to do."

What the ICC left Carter with, however, is the business of hauling department store manikins—a business, Carter says, that "went out in 1956. There just weren't any more manikins to haul. . . . Any manikins that are shipped any more are sent individually by United Parcel or parcel post."

ECONOMICS OF RACISM IN SOUTH AFRICA

Mr. CLARK. Mr. President, the Senate Subcommittee on African Affairs is currently holding hearings on the situation in South Africa, including U.S. policy and the role of U.S. business involvement there. A major focus of our hearings is the conduct of the subsidiaries of U.S. corporations. We are reviewing the constraints that South Africa's discriminatory apartheid system places on company employment practices in that country, and we are also examining efforts which corporations may be making to try to provide equal opportunity to their South African employees.

The need for U.S. companies to make special efforts on behalf of their employees in South Africa is apparent from a review of the customs, laws, and policies which affect opportunities for black workers there. A recent article by John F. Burns in the New York Times on September 19, 1976, provides useful background on the impact of apartheid on workers in South Africa. I ask unanimous consent that the article entitled "Economics of Racism in South Africa" 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, Sept. 19, 1976]

ECONOMICS OF RACISM IN SOUTH AFRICA

(By John F. Burns)

JOHANNESBURG.—A cartoon in one of the newspapers here last week showed Prime Minister John Vorster, apron tied to his ample waist and broom in hand, greeting Secretary of State Henry A. Kissinger at the door of Mr. Vorster's official residence.

"Excuse the mess," the Prime Minister was saying, "but the help hasn't turned up."

In homes and offices, on farms and factory floors, from one end of South Africa to the other, whites are learning to take over menial tasks normally performed by blacks. Last week, a three-day protest strike in Johannesburg, the second in three weeks, halved the black labor force. It was a telling demonstration of the potential that black workers have to cripple an economy that has been underpinned for decades by an inexhaustible supply of cheap, docile and unorganized labor.

After three months of battling with heavily armed police and a death toll of more than 300, demonstrators in the black townships evidently have decided that political power for them, is more likely to grow out of idle lathes and abandoned brooms than the barrels of guns, which the law in any case denies them. The message has permeated a white community that has become inured to the daily bloodshed in the townships, prompting insistent pleas for racial reform from the normally conservative captains of industry and commerce.

The scene in Johannesburg, economic hub of the country, gave a foretaste of the disaster the corporate barons wish to avert. Building sites stood idle, textile plants barely ticked over, delivery trucks sat in rows outside warehouses.

The extent to which the country's 4.2 million whites have been sustained by the labor of its 18 million blacks is starkly apparent in the Government's own statistics, which suggest that scarcely any sector of the economy could function for long without black workers. Of the 4.9 million fulltime workers registered last year, slightly over half, 2.7 million, were black, 1.5 million were white, 526,740 were of mixed race, and 181,066 were Asian. The dominant role played by blacks is more evident from the industry-by-industry breakdown. In gold mining, the pillar of the economy, the labor force of 380,091 included 341,575 blacks. Figures for other sectors show a similar ratio: coal mining, 190,596 (134,012); construction, 446,086 (309,094); textiles, 97,628 (66,939); and food processing, 159,577 (103,286). Only in the public sector were the averages significantly lower: In public service, 461,948 (178,530); and the railways, 244,892 (113,406).

Figures for income by the various race groups show a huge disproportion. Whites, constituting 30.6 percent of the fulltime labor force, earned 68.2 percent of the wages and salaries in 1973. Blacks, 55 percent of the labor force, earned 21.1 percent.

The Government asserts, fairly, that black incomes have risen much faster in recent years than whites'. Between 1970 and 1975, the real earnings of whites increased only 1.3 percent, compared with 8 percent for blacks. However, the effort to close a gap which had been progressively widening until the late 1960's made only a vestigial impact on the disparities. Average annual income among urban whites is estimated to be about $6,000; among the urban blacks, most of whom are restricted to unskilled work, is between $860 and $1,600. In June skilled workers in the construction industry, almost all white, were earning an average of $122 a week; unskilled workers, almost all black, $39. What this means can be judged by the Johannesburg Chamber of Commerce's estimate that the subsistence income for a family of five in Soweto in May 1975 was $136 a month.

With only 5.6 million blacks living in urban areas, less than a third, a truer picture of the bleak economic circumstances in which most blacks live is given by figures for those living in the countryside. In 1973, the average annual income among black farm laborers was $250. But an equal number of blacks were living, if barely, off their own meager plots, earning less than $100 a year. In the tribal homelands, where nearly 8 million blacks live, the vast majority live outside the cash economy altogether, grazing cattle and bartering as their forebears did.

Government officials argue that the relevant comparison is not between whites and blacks in South Africa, but between South Africa's blacks and blacks elsewhere on the continent. By this standard, they say, blacks are vastly better off here than they are elsewhere. "In Johannesburg alone, blacks have a larger purchasing power than the gross national product of Sierra Leone, Malawi and Botswana, to mention only three." one official recently claimed. However, the claim is disputed by many economists. One private estimate puts the average per capita income among South African blacks 12th among African countries.

Officials also point proudly to the existence of a black middle class, claiming that it is the only one of any size on the continent. Before disorders erupted in Soweto, whites taking the official tour of the township were driven down Pioneer Avenue, described as the "millionaires row" of the township. In many ways, the street—a few dozen ranch-style homes, amid 102,000 boxlike houses built by the Government, with an average of 6.7 people in four rooms—serves as a symbol for the economic status of Soweto. At the top sits Ephraim Tshabelala, who built a fortune out of a gas station, a cinema, and a chain of grocery stores; in the middle, a small middle class; and at the bottom, a huge mass of unskilled workers.

Probably the best measure of the middle class is the Government's manpower survey, which lists the number of blacks employed in the various professions. In April 1975 the survey showed a total of 11 engineers, 31 chemists, 63 lawyers, 83 university teachers, 85 doctors, and 528 journalists and writers. Only in school teaching, where there were 74,980 blacks and 54,928 whites, and among policemen, where there were 31,109 blacks and 22,409 whites, did blacks outnumber whites.

The growth of the middle class has been artificially restrained by the limited opportunities for vocational and professional training and by the system known as "job reservation." Enshrined in law and jealously guarded by the white trade unions, the system sets aside certain skilled jobs—accounting for an estimated 2.5 percent of all industrial jobs—for whites. The restrictions are concentrated in the motor mechanics and building trades. Last year, in the construction industry, overwhelmingly dependent on blacks for heavy labor, there were only 1,424 black artisans, compared with 30,912 white ones. Attempts by employers to persuade unions to open new opportunities to blacks are strongly resisted; in construction, it took years for blacks to be allowed to lay bricks, and then only stock brick., which are covered later by plaster or stucco. A national strike in the diamond cutting industry was averted at the last minute a few months ago when the unions agreed to allow blacks to cut stones—but only small ones, accounting for a minor proportion of the total.

While they support other reforms, industrial executives are candid about their reasons for opposing wider unionization among

blacks. In many sectors, especially mining, employers claim that the rapid wage increases of the past five years have already driven their profit margins dangerously low. In gold mining, where experienced black miners can earn up to $200 a week, less than half the $552 minimum paid to whites working underground, a decision to equalize minimum pay scales for the two groups would, industry experts say, bankrupt at least 16 of the 42 mines now in operation. The same is probably true for many other industries, especially when the plunging gold price has driven business into the depths of a recession.

EARTH RESOURCES INFORMATION SATELLITE SYSTEMS ACT

Mr. MOSS. Mr. President, a hundred years from now, people will look back and wonder how man ever managed his affairs on the Earth without the tools provided by the space program. In the resources area, the Landsat satellites not only provide a tool for making very good crop surveys and crop predictions for harvest periods, they also provide hitherto unavailable capability to detect natural resources such as oil, mineral, and natural gas deposits from orbit. In today's world it is vitally necessary that we understand the available supply and existing demand patterns in the food area. Hunger is one of the most pressing problems for the next decade on the Earth. In the Earth-orbiting satellites we have, for the first time, a tool which will make it possible for us to understand the nature of this global problem in all its complexity.

The glaring omission of the current program is the absence of a continuing long-range commitment to Earth resources satellite services. There now exist new technologies which can assist in better management of the Earth's resources. S. 3759, the Earth Resources Information Satellite Systems Act of 1976, is a step toward using these new technologies for the betterment of mankind.

I ask unanimous consent to add to the list of cosponsors of S. 3759 the names of my distinguished colleagues Senator ABOUREZK of South Dakota, Senator MATHIAS of Maryland, and Senator YOUNG of North Dakota.

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

THE AIR BAG ISSUE

Mr. MOSS. Mr. President, on August 3, 1976, Secretary of Transportation William Coleman conducted a hearing for the purpose of exploring the alternatives available to the Department in providing restraint protection for automobile occupants. Among the alternatives the Department is considering are mandatory seat belt laws, passive—automatic—restraint systems such as air bags, and continuation of the present seat belt requirements and reminder system.

While the Secretary is to be commended for his insightful questioning at this hearing, he is but one of a long string of former Secretaries of Transportation who, along with the Administrators of the National Highway Traffic Safety Administration, have examined this issue. For more than 7 years now, the proceedings on the restraint system issue have been pending, and the common thread that runs throughout these 7 years is approval of the automatic restraint approach by all previous DOT Secretaries and NHTSA Administrators.

Now is not the time for procrastination. This issue should have been concluded 5 years ago. Indeed, there is no other regulatory decision in the history of Federal safety regulation which has commanded so much attention and deliberation. The motor vehicle industry which must have sufficient leadtime to design and build motor vehicles, is entitled to an answer. And the American motorist, of whom more than 45,000 are killed annually, is entitled to an occupant restraint system which affords real protection.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the Washington Post on September 1, 1976, by Joan Claybrook entitled "The Air Bag Issue: 'Whether and When.'" I believe this article by an air bag proponent will assist my colleagues in the Senate in understanding the issues being considered by Secretary Coleman.

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

THE AIR BAG ISSUE: "WHETHER AND WHEN"

(By Joan Claybrook)

The Washington Post editorial writers have been around this town long enough to know that an agency administrator can make or break a government program. For The Post to fault Ralph Nader when he challenges Transportation Secretary Coleman to have the "moral fortitude to stand up to the giant auto corporations and the White House" in deciding on passive restrains in autos reflects editorial impetuousness and factual carelessness.

The issue in controversy is not the efficacy of the air bag as The Post suggests. The life-saving capability of passive restraints is undisputed and the technical feasibility is assured. The only issue facing Secretary Coleman is political: whether or when. In view of the behavior to date of the White House, the auto industry, and Secretary Coleman on passive restraints, Mr. Nader's statement is, in fact, right on point. Please consider the facts.

1. The merits of passive restraints are widely acknowledged. Former President of General Motors, Edward Cole, and former Vice President John Z. DeLorean, have been enthusiastic supporters. The major auto insurance companies (Allstate, State Farm, Nationwide and others) have spent millions educating the public, members of Congress, and federal officials about their unique utility. The air bag device has been subjected to some 260 million miles of phenomenally successful testing in over 12,000 cars on American roads. The Department of Transportation estimates passive restraints will save about 10,000 auto crash deaths per model year and hundreds of thousands of injuries at a cost to the manufacturer of about $70 per car—the equivalent of a vinyl roof or power windows.

This means that every year of delay by Secretary Coleman condemns tens of thousands of individuals to death or serious injuries which are avoidable. In light of this senseless bloodshed, Mr. Nader pointed out that to advocates of passive restraints the cause of protecting bodily rights is as fundamental as the cause of protecting civil rights has been to Secretary Coleman. Unfortunately, as Secretary of Transportation, Mr. Coleman has had lesser priorities, concentrating for instance on allowing the supersonic Concodre to use U.S. airports for the select few who travel abroad.

2. Administrative proceedings on passive restraints have been pending in the Department of Transportation (DOT) since 1969—seven years, without resolution. In 1970 General Motors told DOT is would put air cushions as standard equipment on 1975 passenger cars, most light trucks and certain multi-purpose passenger vehicles. It never happened. The proposed standard which Secretary Coleman wants to review again is, with a few adjustments, the same standard DOT first recommended for 1972 models and first mandated for 1974 models, then extended until 1976 models, then extended until 1977 models, is now pending for 1978 models and with Coleman's accumulated delays could not become effective before 1980 models.

3. These delays were orchestrated by the auto industry (primarily Ford and Chrysler) with the assistance of the White House and over the objections of the successive administrators of the National Highway Traffic Safety Administration in the Department of Transportation (Dr. William Haddon Jr., Douglas Toms, and Dr. James Gregory) and former Transportation Secretary John Volpe. One example of delay was the order in 1971 from the White House to Volpe and Toms to substitute the safety belt ignition interlock device for passive restraints until at least 1976. Representative John Moss described it in debate on the floor of the House:

"The interlock was brought about over the objections of the Department of Transportation as a result of the visit of the presidents of two of the major manufacturers of automobiles (Henry Ford and Lynn Townsend) with the President of the United States (Richard Nixon) and at a subsequent meeting attended by Mr. Jonh Ehrlichman, Mr. Robert (sic) Flanigan, and another White House aide, the order was issued to the Department of Transportation to go along with the interlock. . . ."

Other auto industry strategies have included: appeals to the courts and the Congress, widespread advertising campaigns falsely condemning passive restraints, exaggerated cost claims, and on and on.

4. Shortly after becoming President, Gerald Ford announced he would press for a moratorium on all major auto safety and auto air pollution actions through 1980.

5. Seventeen months ago, Mr. Nader visited Secretary Coleman shortly after he took office, and described the incredible delays in implementation of the passive restraint standard. On hearing the tragic odyssey of this life-saving device, Coleman responded that he was quite familiar with claims of "all deliberate speed" (the same language used in the Supreme Court decision mandating integration of public schools. Brown vs. Board of Education). He said he would not tolerate similar delays on passive restraints, and would give the issue his personal attention. Please note that Mr. Coleman proffered the first analogy between civil rights interests and life-saving passive restraints in autos.

6. Two months after Coleman took office, in May 1975, the National Highway Traffic Safety Administration held five days of public hearings on passive restraints with 40 witnesses to thoroughly air the issues before promulgation of the final rule. Secretary Coleman did not attend the hearings and took no action for twelve more months.

7. On May 24, 1976, Secretary Coleman finally signalled his future intentions to prolong a decision at the Economic Club of Detroit, the enclave of the giant auto companies, where he sympathetically states: "As an aside, I must note that I have seen few signs of comfort in the auto industry with

the regulations you have to live with as a result of foolish congressional misdirection."

8. On June 9, 1976 Secretary Coleman formally announced he would delay the rulemaking further. He said he would personally hold additional public hearings (one day) in August with a final decision by January 1, 1977—after the November election and too late for installation of passive restraints before 1980 models, of course.

9. The Washington Post on June 10, 1976, in reporting on Coleman's determination to further delay action on passive restraints, stated:

"With Coleman's approval, Dr. James B. Gregory, departing administrator of the Department of Transportation's National Highway Traffic Safety Administration, had assured Rep. John E. Moss last February that the Secretary would make the final decision when the Congress recesses in August."

On the new delay, Gregory is quoted as saying: "I'm disappointed. . . . He's the boss and I'm a lame duck. It's his decision." And Rep. John Moss complained: "It's a cave-in to industry pressure."

If citizens can't question the intentions of senior government officials who fail to vigorously carry out their statutory mandate, civil servants will never be accountable to the interests of citizens. The Post editorial writer's bombastic response to Nader's challenge to a heretofore unresponsive cabinet officer is an example of inadequate research of the issue and even less sensitivity toward the gravity of delay.

INTERNATIONAL WOMEN'S YEAR COMMISSION REPORT

Mr. BAYH. Mr. President, yesterday I inserted into the RECORD the introduction and first chapter on homemakers contained in the report to the Congress and the President by the International Women's Year Commission. Today I would like to insert the next two chapters of the report for the use of my colleagues and their constituents.

The media has an enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and aspirations. The International Women's Year Commission recommends vigorous enforcement of communications laws and adopted "Ten Guidelines to the Media," on the portrayal and treatment of women.

The Commission, as its first public action and highest priority, urged ratification of the equal rights amendment to the U.S. Constitution. The International Women's Year Commission looked at the record in States which already have ERA laws of their own to see how it affected women and men.

Mr. President, I ask unanimous consent that these two chapters of the IWY report be printed in the RECORD.

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

MASS MEDIA: FRIEND OR FOE?

Children use television characters as role models in deciding what they want to be when they grow up.

Adults, as well as children, tend to identify most strongly with characters like themselves—characters of their own age, sex and race.

A survey of the stories in women's magazines from 1940–1970 reported that women were portrayed in one of four ways: single, looking for a husband; housewife-mother; spinster; or widowed or divorced, soon to marry.

Example is not the main thing . . . it is the only thing.[12]

The media have an enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and their aspirations. Increasingly, women have become more concerned with their limiting portrayal and employment in the media.

In drafting media recommendations, the IWY Commission analyzed not only the image of women in the mass media, but also its power to influence American society, how this power could be used to eliminate sex discrimination, and the participation of women in its employment ranks.

TELEVISION: CONTENT AND EFFECT

Probably the most all-pervasive medium is television. Ninety-seven percent of all homes in the United States have television sets. Americans—mainly the very young, the old, and the poor—tune in about 6 hours a day; that's 2,400 hours a year. Between ages 2 and 65, the average person will watch 9 full years of television.[13]

And what do we see during all those years? Communications specialist, George Gerbner says,

"Night after night, week after week, stock characters and dramatic patterns convey supposed truths about people, power and issues. About three-fourths of all leading characters on prime-time network TV are male, mostly single, middle and upper class white Americans in their 20s and 30s." [14]

News coverage, which should be the accurate reporting of events and people in the whole population, is hardly better. A monitoring project by the American Association of University Women shows that only 523 of 5,353 straight news stories (10.2 percent) were about women. And when women did appear, they were portrayed as "helpless victims of kidnaps, rapes, murders and natural disasters . . . or as opinionless, supportive wives and mothers." [15]

Joan Israel of the Detroit Media Coalition reports, "Ninety-three percent of the commercials we monitored had male voice-overs giving the authoritative word on the product, even diapers and detergents." [16]

In 1975, the National Advertising Review Board (NARB), a group that deals with industry problems, issued a report titled, *Advertising and Women*. They concluded that advertising was "one of the forces molding society . . . Those who protest that advertising merely reflects society must reckon with the criticism that much of the current reflection of women in advertising is out of date." The IWY Commission strongly endorsed the NARB report as did a number of groups, including the National Federation of Business and Professional Women's Clubs.

In order to accelerate the rate of change in the media's portrayal of women, projects, and strategies have been developed to change the status quo.[17] Donna Allen, publisher of *Media Report to Women*, told the Commission's Media Committee, on which she served as a public member,

"Since 1972 there has been an astounding increase in the number of monitoring projects, content analysis studies, legal actions, demonstrations, media change organizations, and conferences on the media, at national and local levels. Even the increase in the number of women who have founded their own media businesses reflects a dissatisfaction with coverage of women by the mass media."

She cited stockholder action as one of the newest and more creative actions now being taken by women: The United Presbyterian Church's General Assembly Mission Council filed shareholders resolutions for debate at the October (1975) annual stockholders' meeting, which read: "Be it resolved that the shareholders of Procter and Gamble request the Corporation to publish a special report which will carefully examine the images of women in the Corporation's advertising."

To date most studies of sexism on television analyze its content, i.e., how many women are presented in what roles. However, data on the effects of television also support the notion that people's attitudes are shaped by the programs they watch. For example, the Surgeon General's report on televised violence concludes that there is an indication of a causal relation between viewing violence on television and aggressive behavior.[18]

Researchers indicate that additional information is needed to gain a fuller understanding of the impact of television on sex-role imagery.[19] The Commission believes that a study, similar to the Surgeon General's on violence, could help illuminate the relationship between the portrayal of women on television and the self-image of viewers. Therefore the IWY Commission recommends that the Departmentof Health, Education, and Welfare undertake a major study to determine the impact of television programming and advertising on sex discrimination and sex-role stereotyping to determine the extent to which television causes and reinforces sexism.

Recognizing the unique creative problems in the development of entertainment programming and commercials, the Commission drew up a checklist of questions for use by writers, directors, producers, actors, actresses, and sponsors of advertising messages and the creative agencies.

Included in the 16-point checklist are:

Are the women you portray, especially in advertising, obsessive about shiny floors, clean ovens, good tasting coffee, and sparkling laundry to the exclusion of mature human values? Are homemakers portrayed with dignity?

Is the exploitative "woman as victim" theme the main entertainment value of your piece? Is she the hapless object of brutalizing forces? Does she make things worse by making panicky choices?

Do you show men responding positively to strong independent women, just as you show women who respond to men who have those qualities?

(The complete checklist for Entertainment Programming and Advertising is in Part V.)

PUBLIC BROADCASTING—NONCOMMERCIAL SEXISM

The effort to improve the portrayal of women on television also extends to Public Broadcasting.[20] The Advisory Committee of National Organizations (ACNO), which was created in 1972 by the Corporation for Public Broadcasting (CPB) to advise them on the public's needs and interests, adopted a position paper assessing women's programming.

According to ACNO, proper and adequate representation of women is defined in three distinct but complementary areas:

1. An honest, overall image of women in all programming;

2. Integration of women into all areas of the broadcast media; and

3. Thorough coverage of issues pertinent to women.

ACNO called for immediate action by CPB to implement full integration of women in employment and programming.

In response to ACNO's position paper, the CPB Board established a National Task Force on Women in Public Broadcasting. After a year of monitoring, the task force concluded that sex discrimination in public broadcasting is overwhelming and that "programming showed few, if any, women. Women are not [only] stereotyped on public broadcasting, they are overlooked." [21]

Footnotes at end of article.

For example, 78 percent of the characters monitored on Sesame Street were male and more than 87 percent of the announcers and narrators (voice overs) were male.

The formal report of the task force was submitted to the CPB Board in October 1975; however as of April 1976 no substantial action has been taken on the recommendations.

The IWY Commission strongly endorses and calls for the immediate adoption of the task force recommendations.[22] In addition, the IWY Commission recommends that, in considerling appropriations, the Office of Management and Budget and the Congress request statements on the progress made by CPB. Further, the IWY Commission recommends that the CPB conduct a followup study in 1980 to measure the improvements in programming and employment of women in public broadcasting.

EMPLOYMENT: DISCRIMINATION BEHIND THE SCENES

Is there a link between the absence of women in media policymaking positions and sexist coverage and programming? In 1974, 65 women who work in the media told their stories anonymously in a book, *Rooms With No View*.[23]

They documented through personal experience and reporting, sex discrimination in television, magazines, newspapers, wire services, and book publishing. Especially noted was the lack of participation by women in policymaking positions.

The Federal Communications Commission (FCC) employment figures for 1975 show that women held 26.3 percent of the positions in the broadcast industry.[24]

In the top four job categories—managers, professionals, sales, and technicians—females were in only 13.1 percent of the positions, an increase of 1.5 percent from the previous year. Furthermore, according to a study by the Office of Communication for the United Church of Christ (UCC), the number of overall clerical positions in the industry dropped by 509 between 1971 and 1975, while the overall number of managerial positions increased by 1,302. Since, as the UCC puts it, "It seems improbable that this greatly increased corps of management personnel can function with reduced clerical support," this improvement may be in job title only and not in responsibilities or salaries.[25]

Women are now organizing to fight sex discrimination in the media. Numerous newspapers, including the *Washington Post* and the *New York Times*, have had major sex discrimination complaints filed against them. But women alone or in coalition still face serious barriers whenever they challenge sex discrimination.

For example, in March 1971 the Women's Rights Committee at WRC–TV, an NBC-owned and -operated station in Washington, D.C., became the first broadcast group to file a class action sex discrimination complaint with the Equal Employment Opportunity Commission (EEOC). The women at WRC started meeting during the spring of 1970, a few months before the 50th anniversary of Women's Suffrage. Mary Catherine Kilday, WRC–TV producer of the "Woman Is" program, remembers:

"We didn't know about employment complaints, the EEOC or any of that technical stuff, but we wanted to let station management know we were not satisfied with our low paying, no responsibility jobs. The Suffrage anniversary gave us a great reason to organize and plan an action. We went from discussions, to meetings, to serious negotiations and got nowhere. We came to the conclusion that they could talk us to death. Management gave us no choice but to file formal complaints." [26]

While these activities were developing at NBC in Washington, the women at NBC in New York were also organizing. They too sought remedies through meeting with the network's President's Council, and they too got nowhere. Management refuted their discrimination charges in a time-honored corporate manner—they prepared a slide show. "They had one of those carousel projectors, with slides done up by the art department showing graphs in lots of colors," recalls Lois Farmer, a programmer and systems analyst. "After it was over, everyone sat there speechless. The next Monday, we filed our complaint." [27]

After investigating the NBC charges, the New York City Human Relations Commission made a *reasonable cause finding* in 1975. This finding was later adopted by the EEOC.[28] Since subsequent negotiations were ineffective, the employees filed suit in spring 1976 for violations of Title VII of the Civil Rights Act of 1964.[29]

A recurring theme throughout the IWY Commission's work had been the pervasiveness of employment discrimination on the basis of sex.[30] In making final recommendations to the media, the Commission stressed the importance of women participating equally with men at all job levels, especially those where policies are made. (A discussion of the Ten Guidelines to the media follows later in this section.) The Commission made a formal recommendation to the Equal Employment Opportunity Commission,[31] urging the agency to identify and attack patterns and practices of discrimination among major employers in the media, especially in commercial television.[32]

PLAYING BY FCC RULES

The Federal Communications Commission (FCC)[33] is the only Federal regulatory agency to develop formal rules for eliminating employment discrimination in the industry it regulates. However, the guidelines to implement and enforce these rules, which were developed in 1968, have not been adopted. In 1975, the FCC released proposed guidelines and solicited comments from interested groups and individuals.

Anticipating the adoption of these guidelines, the IWY Commission recommends that the FCC use the same standards as the EEOC and the Affirmative Action Program of the Federal Contract Compliance Program of the Department of Labor when evaluating a broadcaster's performance.

Without finalized guidelines to follow, citizen groups are confused as to how to proceed with employment complaints at the administrative stages.[34]

The U.S. Commission on Civil Rights, as well as feminist groups, raised this issue with Congress and the FCC and pointed out the agency's lack of commitment in enforcing their rules and in establishing guidelines on employment discrimination.[35]

If a complainant raises a "substantial issue" of employment discrimination, for example, FCC rules require an administrative hearing.[36] Without a hearing, challenging groups have no access to comprehensive data on a licensee needed to determine the underlying reasons for disparities in employment and programming. The FCC, however, has never defined "substantial issue." According to the U.S. Commission on Civil Rights, "If the FCC took action [i.e., ordering a hearing in a case], on the basis of an EEOC reasonable cause decision, it would be supportive of EEOC's administrative authority and hopefully induce companies to conciliate" (or comply with Title VII.[37]

In September 1972, after the WRC–TV employees had filed their employment complaint,[38] the National Organization for Women (NOW), with the support of 10 other organizations, filed a petition-to-deny the station's license renewal. NOW asked the FCC to hold a hearing on WRC's employment and programming practices. Before the FCC made a decision about the license renewal, however, the EEOC in 1973 decided the employees had a reasonable cause for filing their complaint.[39] Three years later, the FCC denied the request for a hearing, claiming that the station's employment profile had improved and that the station was in compliance with public interest standards. Civil rights groups feel that the FCC's public interest standards are not compatible with the current statutory and case law upon which the EEOC standards are predicated [40] and have appealed this FCC decision to the U.S. Court of Appeals.

To help remedy this kind of situation, the IWY Commission recommends that the FCC grant a hearing on the issue of employment discrimination whenever a challenger (petitioner) of a licensee shows that the EEOC has found a reasonable cause to believe the licensee has violated Title VII of the 1964 Civil Rights Act.[41] In addition, the Commission recommends several structural changes within the FCC: that it open to the public its regularly scheduled meetings; that it establish a Women's Advisory Committee to meet on a semiannual basis, and that it consolidate into one unit its three equal employment offices.

PART OF THE SOLUTION

Increasingly, the law is acknowledging women's rights to fair treatment, especially in employment. Throughout this report, the IWY Commission recommends necessary changes that can be accomplished by rigorous enforcement of these laws or by amended administrative procedures, particularly for licensed media. But much of what needs to be done is beyond the law's proper reach. The IWY Commission believes in the independence of the press. However, the media should use this essential independence more responsibly and accurately in their treatment of women.

In that spirit, the IWY Commission adopted 10 guidelines or minimum standards of fairness and accuracy for the treatment of women by the mass media. As Patricia Carbine, chair of the Commission's Media Committee and publisher and editor-in-chief of Ms. magazine, concluded, "Our hopes, our dreams, our own lives are profoundly shaped by the presentation of us by the media. What women are demanding, from this powerful, pervasive industry are accurate images and the right to participate fully in their dissemination."

The first two media guidelines relate to employment and they are basic. The next three guidelines call for the enlargement of the media's definition of how news relates to women and to the desegregation of its presentation. The last five guidelines call for changes which the committee believes managements can immediately incorporate into operating policy.

In establishing these guidelines, the committee acknowledges the interrelationship of sex and race discrimination and recognizes that women cannot work to eliminate one while acquiescing in the other.

THE TEN GUIDELINES

1. The media should establish as an ultimate goal the employment of women in policymaking positions in proportion to their participation in the labor force. The media should make special efforts to employ women who are knowledgeable about and sensitive to women's changing roles.

2. Women in media should be employed at all job levels and, in accordance with the law, should be paid equally for work of equal value and be given equal opportunity for training and promotion.

3. The present definition of news should be expanded to include more coverage of women's activities, locally, nationally, and internationally. In addition, general news stories should be reported to show their effect on women. For example, the impact of foreign aid on women in recipient countries is often

Footnotes at end of article.

overlooked, as is the effect of public transportation on women's mobility, safety, and ability to take jobs.

4. The media should make special, sustained efforts to seek out news of women. Women now figure in less than 10 percent of the stories currently defined as news.

5. Placement of news should be decided by subject matter, not by sex. The practice of segregating material thought to be of interest only to women into certain sections of a newspaper or broadcast implies that news of women is not real news. However, it is important to recognize and offset an alarming trend wherein such news, when no longer segregated, is not covered at all. Wherever news of women is placed, it should be treated with the same dignity, scope, and accuracy as is news of men. Women's activities should not be located in the last 30–36 seconds of a broadcast or used as fillers in certain sections or back pages of a newspaper or magazine.

6. Women's bodies should not be used in an exploitative way to add irrelevant sexual interest in any medium. This includes news and feature coverage by both the press and television, movie and movie promotion, "skin" magazines, and advertising messages of all sorts. The public violation of woman's physical privacy tends to violate the individual integrity of all women.

7. The presentation of personal details when irrelevant to a story—sex, sexual preference, age, marital status, physical appearance, dress, religious or political orientation—should be eliminated for both women and men.

8. Hopefully, the day will come when all titles will be unnecessary. But in the meantime, a person's right to determine her (or his) own title should be respected without slurs or innuendoes. If men are called Doctor or Reverend, the same titles should be used for women. And a woman should be able to choose Ms., Miss, or Mrs.

9. Gender designations are a rapidly changing area of the language, and a decision to use or not to use a specific word should be subject to periodic review. Terms incorporating gender reference should be avoided. Use firefighter instead of fireman, business executive instead of businessman, letter carrier instead of mailman. In addition, women, from at least the age of 16, should be called women, not girls. And at no time should a female be referred to as "broad," "chick," or the like.

10. Women's activities and organizations should be treated with the same respect accorded men's activities and organizations. The women's movement should be reported as seriously as any other civil rights movement; it should not be made fun of, ridiculed, or belittled. Just as the terms "black libbers," "Simbionese libbers," or "Palestine libbers" are not used, the term "women's libbers" should not be used. Just as jokes at the expense of blacks are no longer made, jokes should not be made at women's expense. The news of women should not be sensationalized. Too often news media have reported conflict among women and ignored unity. Coverage of women's conferences is often limited solely to so-called "splits" or fights. These same disputes at conferences attended by men would be considered serious policy debates.

FOOTNOTES

[12] Quotes from articles contained in a symposium on "The Effects of Television on Children And Adolescents." *Journal of Communications*, University of Pennsylvania, vol. 25, no. 4, 1975.

[13] Nick Johnson, *How To Talk Back to Your Television Set*, Little, Brown and Co., Boston, 1970, p. 13.

[14] George Gerbner, "The Frightening World of the TV Addict," *Psychology Today*, Apr. 1976, pp. 41–89. Gerbner is the Dean of the Annenberg School of Communications at the University of Pennsylvania.

[15] "The Images of Women in Television," Sacramento Chapter, American Association of University Women, 27 Greenway Circle, Sacramento, Calif. 95831, 1974.

[16] Telephone interview, Mar. 1976, with Joan Israel.

[17] Nancy Stanley, "Federal Communications Law and Women's Rights: Women in the Wasteland Fight Back," 23 *Hastings Law Journal*, Nov. 1971.

[18] Surgeon General's Scientific Advisory Committee on Television and Social Behavior. *Television and Growning Up! The Impact of Televised Violence*, Wash., D.C., U.S. Government Printing Office, 1972.

[19] Linda Busby, "Sex-role Research on the Mass Media," *Journal of Communications*, University of Pennsylvania, vol. 25, no. 4, 1975, p. 127.

[20] Public broadcasting as a national institution was established in 1967 with the passage of the Public Broadcasting Act, Public Law 90–129.

[21] Carolyn Isber and Muriel Cantor, *Report of the Task Force of Women in Public Broadcasting* Corporation for Public Broadcasting, Wash., D.C. 20036, 1975, p. 22.

[22] Adopted by the Committee on the Arts and Humanities, Dec. 4, 1975. See Part V.

[23] Ethel Strainchamps, *Rooms With No View: A Woman's Guide to the Man's World of Media*, N.Y.: Harper and Row, 1974.

[24] FCC Press Release, Mar. 5, 1976.

[25] Ralph Jennings and Veronica Jefferson, *Television Station Employment Practices, 1975*, Office of Communication, United Church of Christ, Jan. 1976, p. ii.

[26] Interview with Mary Catherine Kilday, Mar. 1976.

[27] *Op. cit.*, p. xxii.

[28] The Equal Employment Opportunity Commission has the authority under Title VII of the Civil Rights Act of 1964 to investigate the complaint, report on the investigation findings, and take legal action (file suit) should they find discrimination. If the EEOC finds discrimination, it issues a final *reasonable cause finding*.

[29] 42 U.S.C. secs. 2000e, *et seq.* Title VII prohibits discrimination in employment on the basis of race, color, religion, sex, and national origin.

[30] See Enforcement of Laws Committee and Employment Committee recommendations in Part V.

[31] Adopted by the Committee on Arts and Humanities, Jan. 7, 1976. See Part V.

[32] A similar recommendation was passed by the Commission asking for the enforcement of laws requiring affirmative action programs of Federal contractors in the communications and motion picture industries. See Part V.

[33] The FCC is an independent regulatory agency with broad responsibilities for the regulation in the public interest of radio and television broadcasting, cable television, and the telephone and telegraph communication. Created by Congress under the Communications Act of 1934, the FCC is headed by seven commissioners, one a woman, and all appointed by the President with the approval of the Congress.

[34] Women's groups (petitioners) may oppose a television or radio station's application for license renewal on the basis of employment discrimination or nonresponsive programming by filing a formal complaint called a petition-to-deny license renewal. Petitioners usually request the FCC to hold a hearing on the merits of such a complaint.

[35] See rulemaking comments on FCC Docket No. 20550, 1975 and 1975 congressional hearings on FCC oversight. (Commerce Committee, Communications Subcommittee.)

[36] 13 FCC 2d 766 (1968). An administrative hearing is a "trial" procedure worthwhile to women because of the information obtainable through the discovery process. See Part V for a full description.

[37] *The Federal Civil Rights Enforcement Effort, 1974, Volume 1, To regulate the public interest*. U.S. Commission on Civil Rights, Wash., D.C. 20425, 1974, p. 30.

[38] As of Mar. 1976, WRC female employees have not proceeded to Federal Court with their case because of high legal costs. (Kilday interview.)

[39] *Reasonable cause finding* filed.

[40] See U.S. Senate hearings, Commerce Committee, Communications Subcommittee, Nov. 6, 1975, on FCC oversight.

[41] A similar recommendation was adopted by the U.S. Commission on Civil Rights. See *Volume I—To Regulate in the Public Interest*, p. 231.

MEDIA COMMITTEE [65]

GUIDELINES FOR THE TREATMENT OF WOMEN IN THE MEDIA AND CHECKLIST FOR THE ENTERTAINMENT PROGRAMMING AND ADVERTISING INDUSTRIES [66]

The IWY Commission recommends to all media the adoption and implementation of the following Guidelines for the Treatment of Women in the Media. Further, the Commission recommends to the entertainment programming and advertising industries the adoption and implementation of the following Checklist for the Portrayal of Women in Entertainment Programming and Advertising.

GUIDELINES FOR THE TREATMENT OF WOMEN IN THE MEDIA

The media have enormous impact on the formation and reinforcement of behavior and attitudes. When women are constantly portrayed in stereotyped ways, these images affect their lives and their aspirations. Increasingly during the last year or so, women have become more concerned about the limiting portrayal by the media:

Women are rarely represented accurately in radio, television, newspapers, magazines, film, entertainment programming, and advertising.

Despite progress in some areas, news relating to women is still very seriously underreported.

When women's activities are covered they are usually segregated, subordinated, or ridiculed.

Women constitute only 25–35 percent of all people working in the media and only 5 percent of the media's policymakers.

Studies of media practices demonstrate that these problems are universal. A variety of women's groups has painstakingly analyzed media output—locally, regionally, and nationally. Their research substantiates a distorted portrayal and lack of news coverage of women. Public television is not significantly better than commercial television. Licensed media are no better than unlicensed media. Network programming is no better than local programming, etc.

It is important to acknowledge, however, that some progress is being made in the effort to change women's image in the media. The media's awareness of the problems is increasing and some representatives are taking steps to improve.[67] Style books are being revised and employment practices modified. And increasingly women's perceptions of themselves are changing, as myths about women's presumed limitations are being discredited. Still, the work is far from over. In spite of advances that have been made, women are not yet presented by the media in a representative fashion.

The consequences of a distorted image of women by the media are serious and far-reaching. The average school girl spends more time watching television than she spends in the classroom. Her models, her perceptions of her potential are heavily influenced. She is reminded repeatedly of presumed faults and limitations. In the same

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Footnotes at end of article.

way, the self-image even of adult women can be shaken or reinforced by what they read and see. Media distortion is more than academically interesting. It can do immediate, serious psychic damage to the women and men who are exposed to it. It is the means by which an archaic destructive image of women becomes self-perpetuating.

Increasingly, the law is acknowledging women's rights to fair treatment in employment. Elsewhere in its report, the IWY Commission has recommended that necessary changes can be accomplished by rigorous enforcement of law or by amended administrative procedures, particularly for licensed media. But most of what needs to be done is beyond the law's proper reach. The Media Committee believes in the independence of the press. But it believes that the media should use this essential independence more responsibly and accurately in their treatment of women.

In that spirit, the committee offers to the media 10 guidelines or minimum standards of fairness and accuracy in the treatment of women. The committee further recommends a checklist of particular relevance to the entertainment and advertising communities.

The first two media guidelines relate to employment, and they are basic. The next three guidelines call for the enlargement of the media's definition of how news relates to women and to the segregation of its presentation. The last five guidelines call for changes which the Committee believes managements can immediately incorporate into operating policy.

In establishing these guidelines, the Committee acknowledges the interrelationship of sex and race discrimination and recognizes that women cannot work to eliminate one while acquiescing in the other.

The Ten Guidelines

1. The media should establish as an ultimate goal the employment of women in policymaking positions in proportion to their participation in the labor force. The media should make special efforts to employ women who are knowledgeable about and sensitive to women's changing roles.

2. Women in media should be employed at all job levels—and, in accordance with the law, should be paid equally for work of equal value and be given equal opportunity for training and promotion.

3. The present definition of news should be expanded to include more coverage of women's activities locally, nationally, and internationally. In addition, general news stories should be reported to show their effect on women. For example, the impact of foreign aid on women in recipient countries is often overlooked, as is the effect of public transportation on women's mobility, safety, and ability to take jobs.

4. The media should make special, sustained efforts to seek out news of women. Women now figure in less than 10 percent of the stories currently defined as news.

5. Placement of news should be decided by subject matter, not by sex. The practice of segregating material thought to be of interest to women only into certain sections of a newspaper or broadcast implies that news of women is not real news. However, it is important to recognize and offset an alarming trend wherein such news, when no longer segregated, is not covered at all. Wherever news of women is placed, it should be treated with the same dignity, scope, and accuracy as is news of men. Women's activities should not be located in the last 30–60 seconds of a broadcast or used as fillers in certain sections or back pages of a newspaper or magazine.

6. Women's bodies should not be used in an exploitative way to add irrelevant sexual interest in any medium. This includes news and feature coverage by both the press and television, movie and movie promotion, "skin" magazines and advertising messages of all sorts. The public violation of women's physical privacy tends to violate the individual integrity of all women.

7. The presentation of personal details when irrelevant to a story—sex, sexual preference, age, marital status, physical appearance, dress, religious or political orientation—should be eliminated for both women and men.

8. It is to be hoped that one day all titles will be unnecessary. But in the meantime, a person's right to determine her (or his) own title should be respected without slurs or innuendoes. If men are called Doctor or Reverend, the same titles should be used for women. And a woman should be able to choose Ms., Miss, or Mrs.

9. Gender designations are a rapidly changing area of the language, and a decision to use or not to use a specific word should be subject to periodic review. Terms incorporating gender reference should be avoided. Use firefighter instead of fireman, business executive instead of businessman, letter carrier instead of mailman. In addition, women, at least from age 16, should be called women, not girls. And at no time should a female be referred to as "broad," "chick," or the like.

10. Women's activities and organizations should be treated with the same respect accorded men's activities and organizations. The women's movement should be reported as seriously as any other civil rights movement; it should not be made fun of, ridiculed, or belittled. Just as the terms "black libbers" or "Palestine libbers" are not used, the term "women's libbers" should not be used. Just as jokes at the expense of blacks are no longer made, jokes should not be made at women's expense. The news of womens should not be sensationalized. Too often news media have reported conflict among women and ignored unity. Coverage of women's conferences is often limited solely to so-called "splits" or fights. These same disputes at conferences attended by men would be considered serious policy debates.

CHECKLIST FOR THE PORTRAYAL OF WOMEN IN ENTERTAINMENT PROGRAMMING AND ADVERTISING

There are problems in presenting women in the media that need special correction beyond enlarging an obsolete definition of news or updating style books. Recognizing the unique creative problems in the development of entertainment programming, the committee has drawn up a checklist of questions to be used by writers, directors, producers, and others, including actors and actresses. This checklist is also directed to sponsors of commercial advertising messages and to the agencies that create them:

1. Are the women you portray shown as whole people or as weak and confused and dependent upon male strength, courage, and inventiveness? Do exceptions seem to be abnormal?

2. Do you look for ways to show women in roles that are not stereotypically defined (for example, judges, doctors, telephone line workers, police, and armed services personnel?)

3. Are you writing leading parts for women?

4. Is the exploitative "women as victim" theme the main entertainment value of your piece? Is she the hapless object of brutalizing forces? Does she make things worse by making panicky choices? Would the piece work just as well if a man were in her shoes?

5. If a rape is shown, is it dealt with as a basically sexual experience, which it is not, or as a physical assault, which it is?

6. Are women presented as appealing because they are "cute," uninformed, or manipulative?

7. Do you show men responding positively to strong independent women, just as you show women who respond to men who have those qualities?

8. In a scene involving men and women, who does all the talking, speculating, problem solving? Do the women stand by and pour coffee, offering emotional support, or do they take an active part in the proceedings?

9. Are the women in a crisis portrayed as emotional or irrational?

10. If a woman has an idea, plan, solution or proposal, does she apologize first or expect to be taken at face value?

11. Are unmarried women usually presented as incomplete or inadequate?

12. Does your work reflect the fact that some women occasionally rescue men—not only emotionally but also physically?

13. When a woman takes action that reflects self-esteem, does she do so as a result of her own insight or must she rely on the paternal guidance of a man?

14. Do the women you portray have good, open friendships with other women, or do they reflect the old-fashioned stereotype that women are competitive and distrustful with each other?

15. Are the women, as you portray them in drama or advertising, excessively concerned with clothes and appearance, whereas the men are presented as achieving good grooming effortlessly?

16. Are the women you portray, especially in advertising, obsessive about shiny floors, clean ovens, good tasting coffee, and sparkling laundry to the exclusion of mature human values? Are homemakers portrayed with dignity? [68]

No checklist or set of guidelines can insure that misconceptions about women are not perpetuated. This will require conscious, sustained efforts to change fundamental attitudes. The World Plan of Action, adopted at the United Nations Conference for International Women's Year, recognizes the responsibility of the media in creating this essential change:

"A major obstacle in improving the status of women lies in public attitudes and values regarding women's roles in society. The mass communication media have great potential as a vehicle for social change and could exercise a significant influence in helping to remove prejudices and stereotypes, accelerating the acceptance of women's new and expanded roles in society, and promoting their integration into the development process as equal partners."

NEW STUDY TO DETERMINE THE IMPACT OF TELEVISION ON SEX DISCRIMINATION AND SEX-ROLE STEREOTYPING [69]

The IWY Commission recommends that the President, through the Secretary of Health, Education, and Welfare, direct the Assistant Secretary for Health to commence a major study to determine the impact of television programming and advertising on sex discrimination and sex-role stereotyping in the American society.

Background

The power of the broadcast media to influence the American society has long been recognized. There are approximately 112 million television sets in the United States in 65.8 million homes (94 percent of all homes), and the average American home watches television for 6 hours and 49 minutes per day—or approximately 2,400 hours per year. This means that the average person between their second and 64th year will watch 9 full years of television.[70]

Americans receive more eucation from television than from their elementary and high school educations. For example, during an

Footnotes at end of article.

average year a junior high school student attends school 980 hours and watches television 1,340 hours. By the time she or he graduates from high school, the student will have spent roughly 11,000 hours in the classroom and more than 15,000 hours in front of a television set consuming more than 350,000 commercial messages.

The President's Commission on the Status of Women, at a consultation on March 19, 1963, asked representatives of the communications industry for advice on (a) actual portrayal of women by the mass media; (b) what new needs of American women the mass media can help meet; and (c) how well women are achieving full occupational opportunity in communications—in broadcasting the press, magazines, and films. A participant of the President's Commission of 1963 noted that:

". . . women are presented in an unrealistic way. They seem to be typically in the middle income groups, subservient to the male who earns the money. Women are never portrayed as a serious partner or breadwinner. You never see creative women in politics or as working mothers. So I know there is a big distortion from reality." [71]

There is still evidence that the image of women on television is severely one-dimensional and harmful to the development of a women's full potential.[72] Ten years after the President's Commission report, *Redbook* magazine reported that 74 percent of the women polled in their survey agreed with the statement: "The communications media (for example, television and the press) degrade women by portraying them as sex objects or mindless dolls." [73] Obviously, many of the problems concerning the image of women in the mass media still exist.

In the past few years many studies have been done on the image of women in the media. Invariably these studies conclude with the same statement—not enough data has been collected on the impact of television on sex-role stereotyping or the image of women. For example, an article recently published in *Journal of Communication* concluded:

The vast majority of sex-role research as it relates to the mass media has been content studies. Busby suggested five additional types of research that need to be applied to sex-role imagery. They are: cultural analysis, control analysis, audience analysis, media analysis and effects analysis.[74]

Such a study would require financial and staff resources which most universities or independent researchers do not have.

Footnotes at end of article.

In January 1972, the Surgeon General issued a report on violence and children's television [75] which was based on 23 independent research projects and more than 40 technical papers. Jessie Steinfeld, the former Surgeon General, stated: "These studies . . . make it clear to me that the relationship between televised violence and antisocial behavior is sufficiently proved to warrant immediate remedial action." [76] The report has given groups such as Action for Children's Television important data on the effects on children of violence on television. Congress, television networks, and consumer groups have become increasingly sensitive to the issue, and remedies have been proposed to reduce the amount of televised violence.

Unfortunately, the concern for sexism on television does not match the concern for televised violence. To date, research has analyzed the sex-role content of television; however, little data is available on the effects of watching sexism on the airwaves.

U.S. COMMISSION ON CIVIL RIGHTS HEARINGS ON THE IMPACT OF THE MASS MEDIA ON WOMEN [77]

The IWY Commission recommends that the United States Commission on Civil Rights hold hearings on the impact of the mass media on women.

Background

The U.S. Commission on Civil Rights (USCCR) is a temporary, independent, bipartisan agency established by Congress in 1957 to (a) study and collect information concerning legal developments constituting a denial of equal protection of laws under the Constitution; (b) appraise Federal laws and policies with respect to the denial of equal protection of the laws; and (c) serve as a clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, national origin, or sex. In carrying out its functions, the USCCR holds hearings and submits reports, findings, and recommendations to the President and Congress.

The USCCR recently held hearings on affirmative action in higher education and school desegregation in Boston. As of January 1976 the USCCR had held only one hearing on sex discrimination.[78]

USCCR hearings on the impact of the mass media on women and minorities could provide a forum for obtaining the perceptions of a wide range of the public, including professional, industry, and public interest groups. Over the past 5 years numerous reports and studies have been conducted by independent researchers, by the broadcast and advertising industries, and by performers' unions.[79] The data and information contained in these reports, many of which are unpublished or have been reproduced in professional journals that are not well known, have never been collected in a readily available format. Hearings by the USCCR could not only serve as a clearinghouse for information already obtained but could also assist social scientists and government policymakers in further determining what research should be conducted on this important subject, especially with regard to sexism and racism.

FEDERAL COMMUNICATIONS COMMISSION ADOPTION OF NONDISCRIMINATION STANDARDS AND AFFIRMATIVE ACTION PROCEDURES IN EMPLOYMENT [80]

The IWY Commission recommends that the President, pursuant to the purposes of section 715 of title VII of the 1964 Civil Rights Act (42 U.S.C. 2000e), which directs agencies and departments to insure consistency in equal employment programs, urge the Federal Communications Commission (FCC) to adopt the nondiscrimination standards of the Equal Employment Opportunity Commission and the affirmative action procedures of the Office of Federal Contract Compliance Program of the Department of Labor.

Background

The FCC was created by Congress under the Communications Act of 1934 to regulate interstate and foreign communications in the public interest. The FCC began operating on July 11, 1934, as an independent regulatory agency headed by seven commissioners appointed by the President.

The scope of the FCC's regulating authority includes licensing radio and television broadcasters, monitoring telephone, telegraph, and cable operations, and satellite communications. During license renewal periods (of radio and television stations), the FCC reviews a licensee's files to determine whether it has lived up to its obligations and to the promises it made in obtaining permission to use the public airwaves.

In 1967 the Office of Communications of the United Church of Christ (UCC) petitioned the FCC for a rule asking that "no license be granted to any station which engages in discrimination in employment practices on the basis of race, color, religion, or national origin." Subsequently, the FCC set forth Nondiscrimination Practices of Broadcast Licenses,[81] stating that discriminatory employment practices by broadcast applicants are incompatible with operation in the public interest, and that a mass media service to the public interest standard "clearly parallels the Federal policy in contract awards."

EMPLOYMENT IN THE BROADCASTING INDUSTRY BY JOB CATEGORY: 1974[1]

	Total	Non-minority male	Minority male	Total male	Non-minority female	Minority female	Total female
Officials and managers	23,333	18,882	1,092	19,974	3,004	355	3,359
Percent		(80.9)	(4.8)	(85.7)	(12.8)	(1.5)	(14.3)
Professionals	33,071	25,288	2,833	28,121	4,172	778	4,950
Percent		(76.5)	(8.5)	(85.0)	(12.7)	(2.3)	(15.0)
Technicians	23,393	20,354	2,380	22,734	532	127	659
Percent		(87.0)	(10.1)	(97.2)	(2.3)	(0.5)	(2.8)
Sales	12,572	10,177	650	10,827	1,621	124	1,745
Percent		(80.9)	(5.1)	(86.1)	(12.8)	(0.1)	(13.9)
Subtotal	92,369	74,701	6,955	81,656	9,329	1,384	10,713
Percent	[2] (77.2)	(81.0)	(8.0)	(88.4)	(10.0)	(1.0)	(11.6)
Office/clerical	21,248	1,571	692	2,263	15,703	3,282	18,985
Percent		(7.4)	(3.3)	(10.7)	(73.9)	(15.4)	(89.3)
Crafts	2,874	2,315	365	2,680	162	32	194
Percent		(80.6)	(12.7)	(93.3)	(5.6)	(1.1)	(6.7)
Operatives	1,543	1,098	309	1,407	112	24	136
Percent		(71.2)	(20.0)	(91.2)	(7.3)	(1.5)	(8.8)
Laborers	261	121	124	245	12	4	16
Percent		(46.4)	(47.5)	(93.9)	(4.6)	(1.5)	(6.1)
Service	1,291	490	601	1,091	84	116	200
Percent		(37.9)	(46.6)	(84.5)	(6.5)	(9.0)	(15.5)
Subtotal	27,217	5,595	2,091	7,686	16,073	3,458	19,531
Percent	[2] (22.8)	(20.5)	(7.8)	(28.3)	(59.0)	(12.7)	(71.7)
Total	119,586	80,296	9,046	89,342	25,402	4,842	30,244
Percent		(67.1)	(7.6)	(74.7)	(21.2)	(4.1)	(25.3)

[1] Source: Federal Communications Commission, April 1975.

[2] Percentage of grand total.

On June 6, 1969 (nearly 2 years after UCC's original petition), the FCC adopted formal rules [82] which require all licensees to adopt affirmative action programs. In 1970, the FCC adopted an additional rule requiring every licensee with five or more employees to file a Form 395 and an annual employment profile. In 1970, the National Organization for Women (NOW) petitioned the FCC for amendments to the equal employment opportunity rules to require stations to develop equal employment opportunity programs for women. The FCC adopted these amendments, which were effective February 1972.[83]

Proposed guidelines to implement the 1968 rules were released for comment by the FCC on July 25, 1975.[84] As of January 1976, the FCC had not issued final guidelines. These proposed guidelines fail to meet the standards of the Equal Employment Opportunity Commission,[85] which enforces title VII of the 1964 Civil Rights Act, and the Office of Federal Contract Compliance (CFR) programs of the Department of Labor,[86] which enforces Executive Order 11246, as amended. For example, the FCC's proposed guidelines do not prohibit employers from discriminating against women because of pregnancy, as do the guidelines of the EEOC. In addition, the FCC fails to require licensees to include in their EEO programs essential elements such as a comprehensive utilization analysis, narrowly defined job classifications, applicant and promotion flow data, and information on wages and salaries.

FEDERAL COMMUNICATIONS COMMISSION HEARINGS ON DISCRIMINATION IN EMPLOYMENT [87]

The IWY Commission recommends that the Federal Communications Commission grant a hearing on the issue of employment discrimination whenever a challenger to a licensee shows that the Equal Employment Opportunity Commission finds cause to believe that the licensee has violated title VII of the 1964 Civil Rights Act.

Background

Television and radio stations operate under broadcast licenses granted to them by the Federal Communications Commission (FCC) for a 3-year period. During that time, they are required under the Communications Act of 1934 to operate in the public interest.[88] At the end of 3 years, when license expires, stations must reapply to the FCC for license renewal. Section VI of a station's license renewal application requires licensees to submit to the FCC the station's Equal Employment Opportunity program.

Women and minority groups as petitioners may oppose a television or radio station's application for renewal on the basis of employment discrimination by filing a formal complaint, called a petition-to-deny license renewal. Petitioners usually request the FCC to hold a hearing on the merits of such a complaint.

When an employment discrimination complaint is filed with a petition-to-deny, the FCC refers these complaints to agencies with primary jurisdiction over such complaints. A majority of these complaints are sent to the Equal Employment Opportunity Commission (EEOC), which has the authority under title VII of the Civil Rights Act of 1964 to investigate the complaint, report on the investigation findings, and take legal action (file suit), should the EEOC find discrimination. If the EEOC finds discrimination, the agency issues a final reasonable cause finding.

The EEOC has a 200,000-complaint backlog. Though it investigates complaints and makes determinations regularly, it rarely files suit against employers with fewer than 150 employees.[89] The FCC has indicated that it will take cognizance of any final determination by the EEOC when it considers a license renewal application. However, the FCC has never defined what stage of the EEOC's complaint processes it considers to be a final determination.

According to the U.S. Commisison on Civil Rights: "if the FCC took action (i.e., ordered a hearing in a case) on the basis of an EEOC reasonable cause decision, it would be supportive of EEOC's administrative authority and hopefully induce companies to conciliate (or comply with title VII). On the other hand, for the FCC to adopt the posture of awaiting the outcome of a lawsuit before acting is extremely favorable to the licensee, since a court will either reject EEOC's position or issue an injunction ordering the company to take specific action." [90]

Thus the licensee will never be subject to any adverse action by the FCC unless it refuses to obey a court order.

By not ordering a hearing on a petition-to-deny after the EEOC issues a reasonable cause finding, the FCC develops standards which conflict significantly with those of the EEOC.[91] The EEOC standards, which have received widespread acceptance by Federal courts, apply also to virtually all broadcasters. Broadcasters who are thus faced with inconsistent Federal requirements more often than not do nothing. Many have relied on FCC standards in the mistaken belief that they will be in compliance with the requirements of title VII.

For example, the FCC has failed to adopt EEOC's position on sex discrimination, discriminatory tests, and the development of remedial goals and timetables. More significantly, the FCC has refused to adopt title VII standards on burden of proof and on the evidentiary value of statistical disparities in the employer's workforce. The courts have consistently adhered to the position of the EEOC that such statistical disparities shift the burden of proof to the employer to come forward with evidence of nondiscrimination.

By not ordering a hearing on a reasonable cause finding, the FCC creates a "Catch-22" situation. Petitioners are unable to obtain discovery (internal information) on a case until the FCC designates a hearing; however, under the FCC's present standards on employment discrimination, petitioners cannot obtain from the station adequate employment data (salary information, hires, fires, and applicant flow, etc.) to prove discrimination which justifies the FCC in holding a hearing. Petitioners have only the information available to them after the EEOC investigates a case.

The FCC has continued to embrace a view of employment discrimination which always gives the procedural advantage to the broadcaster. The agency's deviance from title VII law was recently emphasized by the EEOC as amicus curiae on behalf of the National Organization for Women (NOW) before the U.S. Court of Appeals for the D.C. Circuit. The EEOC concluded:

". . . it is clear that the standard which has evolved from the FCC's interpretation is unrealistic, unworkable, and no longer serves the FCC's original purpose of eliminating employment discrimination among its licensees in order to ensure their operation in the public interest. Moreover, it is a standard wholly inconsistent with the standards of proof which the courts have adopted in interpreting title VII of the Civil Rights Act of 1964. Since the FCC patterned its equal employment opportunity regulations on the requirements of title VII . . . this growing divergence between title VII and FCC standards not only creates confusion but also reduces the pressure on broadcasters to bring their employment practices into conformity with title VII." [92]

The FCC has a statutory obligation to determine how a licensee's employment practices bear on the licensee's character and ability to operate in the public interest. Accordingly, the FCC should devise an approach whereby it will order a hearing on the merits of the case if the EEOC or another compliance agency makes a reasonable cause finding on a petitioner's allegation of employment discrimination.

ESTABLISHING AN OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL COMMUNICATIONS COMMISSION [93]

The IWY Commission recommends that the Federal Communications Commission establish an Office of Equal Employment Opportunity which shall be directly responsible to the Chair of the Commission and which should assist the FCC in prescribing rules applicable to equal employment opportunities within the FCC and to entities which are licensed by the FCC and in implementing and enforcing such rules.

Background

Under its present structure, the FCC has three offices with Equal Employment Opportunity responsibilities—the industry Equal Employment Opportunity Unit under the General Counsel's Office (two employees); the recently organized Equal Employment Opportunity Unit under the Broadcast Bureau's Renewal and Transfer Division (three employees); and the Internal Employment Unit (two employees). These three offices clearly cannot handle the responsibilities of the FCC for enforcing equal employment practices among nearly 9,000 radio and television licensees.

Therefore, it is necessary that the FCC establish a single Equal Employment Opportunity Office which would have an increased staff and the authority to coordinate the agency's civil rights compliance program.

ESTABLISHING A WOMEN'S ADVISORY COMMITTEE TO THE FEDERAL COMMUNICATIONS COMMISSION [94]

The IWY Commission recommends that the Federal Communications Commission establish a Women's Advisory Committee, directly responsible to the Commissioners, to meet with the Commissioners at least twice a year. The advisory committee will be made up of representatives of organizations and groups and individuals concerned with improving the status of women.

Background

As of January 1976, the Federal Communications Commission has six men and one woman who serve 7-year terms. Their appointments are on a bipartisan basis, and the Commissioners normally serve for more than one term. Each Commissioner has a subject area for which she or he has certain responsibilities. For example, Commissioner Benjamin L. Hooks has equal employment opportunity responsibilities and Commissioner Charlotte T. Reid has responsibilities for developments in cable television. The FCC under its present structure could easily establish a women's advisory committee by inviting women—groups and organizations as well as individuals—to the FCC on a regular basis for input on the operations of the agency.

A precedent for such a committee is the Advisory Council of National Organizations (ACNO) to the Corporation for Public Broadcasting, which is made up of over 45 national organizations.[95] Recently ACNO proposed a "Definition of Women's Programming" that developed into a comprehensive study of women in public broadcasting. In addition a variety of local broadcast stations have established women's advisory councils that have proved beneficial to the stations as well as to the participating organizations. Such a committee advising the FCC could monitor the FCC's progress in combating sex discrimination in employment, encouraging women's ownership of stations, and imple-

Footnotes at end of article.

menting the FCC's existing rules and regulations.

OPENING MEETINGS OF THE FEDERAL COMMUNICATIONS COMMISSION TO THE PUBLIC [96]

The IWY Commission recommends that the Federal Communications Commission open to the public each of its regularly scheduled meetings at which official action is taken. This would enable women to participate more fully in the deliberations of the Commission.

Background

Section 5(e) of the Communications Act of 1934 [97] established regular meetings for the FCC. The FCC has a policy of closing its official meetings to the public. This policy makes it difficult for women's organizations to monitor adequately the activities of the FCC.

INSURING THAT EXECUTIVE ORDER 11246, AS AMENDED, BE ENFORCED WITH RESPECT TO COMMUNICATIONS AND MOTION PICTURE INDUSTRIES [98]

The IWY Commission recommends that the President direct the Secretary of Labor to enforce Executive Order 11246, as amended, with respect to all communications and motion picture industries over which the Office of Federal Contract Compliance Programs (OFCCP) has delegated jurisdiction to the General Services Administration (GSA). Specifically, GSA should establish a task force, composed of at least 50 percent women in all job classifications, to review annually 25 percent of the Federal contractors covered under SIC [99] 483 and SIC 78.

Background

Executive Order 11246 prohibits discrimination in employment on the basis of race, creed, color, or national origin and requires government contractors (with contracts of $50,000 or more and 50 or more employees) to take affirmative action on equal employment. In 1967, sex was added as a prohibited discrimination. This Executive order, as amended, mandates the Secretary of Labor to administer and oversee an extensive program to eliminate employment discrimination by government contractors.[100]

The Secretary of Labor has delegated authority for carrying out the Executive order to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor. The Director of OFCCP has, pursuant to the Executive order, delegated some authority to contracting Federal agencies to enforce contract compliance regulations.[101]

In 1969, a system was developed which assigned compliance responsibility for supply and service contractors, based on classification by industry.[102] GSA was assigned full responsibility for monitoring all contractors in the communications and motion picture industries (SIC 483 and SIC 78).

A review of GSA's files on compliance activities found that although in 1971 and 1972 GSA instituted several reviews of media contractors, it has not conducted followup reviews nor reviewed additional facilities since 1972. It appears, therefore, that few Federal contractors in the communications and motion picture industries are currently being reviewed. GSA seems to review annually only 10–20 percent of the industries under its entire jurisdiction, which covers 23 additional major industries.[103]

WOMEN'S MEDIA INSTITUTE [104]

The IWY Commission endorses the idea of establishing a Women's Media Institute, a non-governmental center where research on changing the image and status of women in the media would be initiated, and where proposals for action in this field would take form. The Commission urges that State conferences, through workshops on the media, illuminate the specific problems a Women's Media Institute could help resolve.

Background

The Media Committee acknowledges the role all media play in helping women to realize their full human potential. It concludes that the problems involved in changing the image and status of women in the media are complex and ongoing. It believes that its recommendations to the media could mark the beginning of a continuing process of positive change. But the committee recognizes the urgent necesssity of establishing a single body that will be ever alert to media practices and will call for changes as it sees needed.

INSURING REIMBURSEMENT OF ATTORNEY FEES IN CASES WHICH COULD HELP TO ELIMINATE SEX DISCRIMINATION [105]

The IWY Commission recommends that the Justice Department review all laws prohibiting sex discrimination and propose revisions to allow the reimbursement of attorney fees to the prevailing party in any action or proceeding brought under these laws for the purpose of eliminating sex discrimination.

Background

A conflict has developed on the question of reimbursing legal fees for civil rights and public interest litigation. On the one hand, the Supreme Court in its decision in *Alyeska Pipeline Service Co.* v. *Wilderness Society* (May 12, 1975), brought to a halt a desirable trend in the Federal courts toward awarding attorney fees in public interest cases. In *Alyeska,* the court held that the Federal courts could not award attorney fees to successful plantiffs in public interest matters without express authorization from Congress. This ruling could have a detrimental effect on the development of litigation brought under laws that prohibit sex discrimination but do not provide specifically for reimbursement of attorney fees (as in title IX of the 1972 Education Amendments). On the other hand, some laws prohibiting sex discrimination, such as title VII of the Civil Rights Act of 1964, do include provisions for fees.

Federal policy on this matter should be consistent. The appropriate way of resolving this conflict is for the Department of Justice to review all laws prohibiting sex discrimination and to propose a remedy making reimbursement of attorney fees the prevailing public policy.

FOOTNOTES

[65] IWY Commission members: Patricia T. Carbine, Chair; and Alan Alda, Margaret Long Arnold, Helen K. Copley, Richard Cornuelle, Honorable Winfield Dunn, Casey Eike, Katharine Hepburn, and Lenore Hershey. Public members: Dr. Donna Allen, publisher, *Media Report to Women;* Midge Kovacs, National Organization for Women; Kathryn C. Pelgrift, Vice President of Planning, Columbia Broadcasting System.

Staff members: Kathleen Bonk and Pamela Curtis.

[66] Recommendation approved by Media Committee Feb. 27, 1976; by IWY Commission same date.

[67] The Media Committee takes particular note of "Guidelines for Equal Treatment of the Sexes in McGraw-Hill Book Company Publications." New York: McGraw-Hill Book Company, 1975.

[68] The Commission supports the recommendations of the National Advertising Review Board's study, *Advertising and Women,* released Mar. 1975.

[69] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[70] Nick Johnson, *How To Talk Back To Your Television Set.* New York: Bantam Books, 1970, p. 11.

[71] President's Commission on the Status of Women, "Consultation on the Portrayal of Women by the Mass Media," Wash., D.C.: U.S. Government Printing Office, 1963.

[72] Linda Busby, "Sex Role Research on the Mass Media," *Journal of Communication,* University of Pennsylvania, vol. 25, no. 4, 1975.

[73] "How do You Feel About Being A Woman"—the results of a *Redbook* questionnaire, *Redbook* magazine, Jan. 1973, p. 11.

[74] Busby, *op. cit.*

[75] *Television and Growing Up: The Impact of Televised Violence.* Report to the Surgeon General, U.S. Public Health Service from the Surgeon General's Scientific Advisory Committee on Television and Social Behavior. Wash., D.C.: U.S. Government Printing Office, 1972.

[76] J. L. Steinfeld, "TV Violence Is Harmful," *Readers Digest,* Apr. 1973, pp. 37–45.

[77] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[78] Hearings on Women and Poverty before the U.S. Commission on Civil Rights, Chicago, Ill., 1974.

[79] *Journal of Communications,* Annenberg School of Communications, University of Pennsylvania, spring 1974.

[80] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[81] FCC Docket No. 18244, FCC 68–702.

[82] "Report and Order" 18 FCC 2d 240 (1969).

[83] See FCC Report and Order in Docket No. 19296, Dec. 17, 1971.

[84] FCC Report and Order Docket No. 20550.

[85] 29 CFR 1604, 1605, 1606, and 1607.

[86] 41 CFR 60–2.

[87] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[88] For additional information, see "Public and Broadcasting, rev. ed.," Procedural Manual, Federal Communications Commission. *Federal Register,* Sept. 5, 1974, vol. 39, no. 173. Wash., D.C.

[89] Nearly 95 percent of the broadcast stations have fewer than 150 employees.

[90] *The Federal Civil Rights Enforcement Effect—1974: To Regulate in the Public Interest,* A Report of the United States Commission on Civil Rights, Nov. 1974, p. 30.

[91] See *Albermarle Paper Co.* v. *Moody,* 43 USLW 4480 (June 24, 1975) and *Griggs* v. *Duke Power Co.,* 401 U.S. 424 (1971).

[92] Brief for the United States Equal Employment Opportunity Commission as Amicus Curiae at 18, *NOW New York Chapter* v. *F.C.C.* no. 74–1853 (D.C. Cir. Appeal filed July 24, 1975).

[93] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[94] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[95] ACNO was established in 1972 by the Corporation for Public Broadcasting to give national support and advice to the board on the public needs and interests of public broadcasting.

[96] Recommendation approved by Media Committee Jan. 9, 1976; by IWY Commission Jan. 16, 1976.

[97] 47 CFR Part O.

[98] Recommendation approved by Media Committee Jan. 20, 1976; by IWY Commission Feb. 27, 1976.

[99] Standard Industrial Code.

[100] Executive Order 11246, Part II, secs. 201, 202, 203; Part III, sec. 301, 3 CFR, 1964–65 Comp., pp. 340, 341.

[101] 41 CFR sec. 60–1.46 (1974).

[102] 41 CFR sec. 60–1.6(b) (c) (e) (1974).

[103] *The Federal Civil Rights Enforcement Effort—1974 Volume V To Eleminate Employment Discrimination.* A Report of the United States Commission on Civil Rights, July 1975, p. 272.

[104] Recommendation approved by Media Committee, Feb. 26, 1976; by IWY Commission Feb. 27, 1976.

[105] Recommendation approved by Media Committee Feb. 27, 1976; by IWY Commission Feb. 27, 1976.

ERA—LET THE RECORD SPEAK

STATE ERA'S

Rose Di Florido, a Pennsylvania wife, is entitled to half the household goods at divorce even though her husband paid for them; the Pennsylvania Supreme Court has so ruled in interpreting the Equal Rights Amendment (ERA) in the State Constitution.[42]

Under Pennsylvania law, prior to that amendment, she would have been entitled only to what she could prove she had paid for. The court in 1975 said, ". . . we cannot accept an approach that would have ownership of household items on proof of funding alone, since to do so would . . . fail to acknowledge the *equally* important and often substantial nonmonetary contributions made by either spouse." [43]

Mrs. Corinne F. Cooper, a Texas homemaker for 16 years with custody of the minor children, was awarded at divorce more than half the community property and $1,500 monthly in child support, plus expenses for private school not to exceed $6,000 per year, and all medical and dental expenses incurred by them. Her husband, a wealthy physician, appealed on the grounds that the award was in conflict with the State ERA.[44] With respect to the award of property the Court of Civil Appeals said, "The difference in earning capacity and business opportunities would justify an unequal division of the community property."

The Court also upheld the child support award stating,

"If 'equality under the law shall not be denied or abridged because of sex,' it must be presumed that the legislature intended that the duty of the spouse[s] to support their minor children is equal. This does not mean, however, that the court must divide the burden of support of the minor children equally between the parties. The court's order in this respect should reflect a due consideration of the respective abilities of the spouses to contribute. The duty to support is not limited to the bare necessities. The court may consider the standards of living which the parties have maintained in the past . . ."

Bernard J. Buonocore, whose wife "separated herself from her husband and their children" leaving two minor children in his care, secured child support from his wife.[45] Her income was almost as large as his. The Superior Court of Pennsylvania said that in light of the enactment of the ERA, ". . . it is clear that both parents have an obligation to share in the support of their children to the extent of their financial capacity and **ability."**

The constitutions of 15 States include provisions explicitly prohibiting sex discrimination in the law.[46] The Women's Law Project of Philadelphia, under contract with the Commission, has collected the reported judicial interpretations from these States and found the fears of opponents unrealized.

Indeed, as indicated by the cases cited above, fairer decisions at divorce to homemakers, to children, and to husbands are resulting from State ERA's. The divorce cases are of great significance, for the legally enforceable support obligations of spouses toward each other and the children are spelled out at divorce.[47]

Rape laws have not been invalidated by State ERA's. State courts in Colorado, Illinois, Maryland, and Texas have all upheld rape provisions protecting only women and penalizing men, or penalizing men more severely.[48]

No laws prohibiting homosexual marriage have been invalidated,[49] and no laws providing for separate toilets have been overturned.

A member of the Board of Directors of the League of Women Voters of New York wrote to the governors of the States that have ERAs in their constitutions, asking whether women had lost any rights under the State ERA, whether public restrooms or sleeping quarters in public institutions or prison cells had been required to be integrated, and whether implementations had been costly or unwieldly.

Replies—all in the negative on all questions—were received from Alaska, Colorado, Connecticut, Hawaii, Maryland, New Mexico, Pennsylvania, Virginia, Washington, and Wyoming.

The following excerpts were particularly enlightening.

Alaska from Lou Anne Maxwell, Equal Employment Opportunity Officer, February 10, 1976:

"Women have not lost any rights in Alaska. To the contrary, although we have no actual studies to prove it, credit, housing, and employment have improved. Women are becoming more aware of their rights and the records of the State Human Rights Commission clearly indicate this—40 percent of the complaints filed are based on sex discrimination. Many women are being employed in jobs not usually open to women. For instance, there are now approximately 1,900 women employed on the Trans-Alaska Pipeline."

Maryland from Ellen Luff, Counsel, Governor's Commission to Study Implementation of the Equal Rights Amendment, January 14, 1976: [50]

"The allegations which have been made about Maryland which you repeat in your letter must be categorically denied. Specifically: (1) Maryland women have *not* lost rights or privileges because of the Equal Rights Amendment; (2) The legislature has *not* mandated sexual integration of public restrooms, prison cells, or sleeping quarters of public institutions, and (3) Implementation of the State ERA has been *neither* costly nor unwieldly."

It is unfortunate that the ERA opponents in various places have been able to make such an effective stand based on such obviously false statements.

Pennsylvania from Marie R. Keeney, Director, Commission for Women, January 21, 1976: [51]

"1. Pennsylvania women have not lost rights or privileges because of the equal rights provision, nor will they when the Federal ERA is ratified. To the contrary, women are in a stronger position, particularly in the domestic relations area as a result of the ERA. This is due to the fact that Pennsylvania is not a common property State, so before the ERA, women had no rights to the household goods in the case of divorce. Our Supreme Court has ruled that, thanks to the ERA, such property must be regarded as the equal property of husband and wife, and must be so divided in the case of divorce. In the case of alimony, new legislation has been passed that makes alimony during the divorce proceedings available to the economically dependent spouse, but this has not altered the rights of women who have not been the primary wage earners. Furthermore, in support cases, the Supreme Court has ruled that the contributions of the homemaker to the care of the children must be considered as an economic contribution in assessing the relative support obligations. So, for the first time, women's work in the home is legally recognized.

"2. There has been neither a mandate nor any action to integrate public restrooms, sleeping quarters in public institutions or prison cells. Absolutely no invasion of privacy in these areas has been encountered in the nearly 5 years the amendment has been in effect.

"3. Implementation has not proven costly or unwieldy, although the necessary statutory changes cannot be expected to occur with no special assignment of staff and effort. In Pennsylvania, the Commission for Women has the responsibility from Governor Shapp to oversee implementation of the ERA, and has completed the statutory review phase of this project. We are devoting a portion of our budget to insure that this process moves as rapidly as possible, but the requirements to date are certainly not unreasonable."

Washington from Governor Daniel J. Evans, February 5, 1976:

"I am aware of no classification of 'privileges' which a woman has lost because of adoption of the ERA. Alimony is awarded on a very limited basis in this State because of the Community Property Law. Adoption of the ERA and the implementing dissolution law merely makes it clear that either spouse may sue for support. A woman has not lost her right to be supported by her husband; rather she never had such a right. Support within a marriage has been a matter of custom and has never been guaranteed by law.

"The accusations concerning integration of facilities are so ridiculous, we in Washington have ceased to reply to them. Rights of privacy remain fully protected in this State, and thus our restroom facilities, prison cells, and sleeping quarters of public institutions remain totally segregated.

"The passage of the Equal Rights Amendment has brought Washington State a new commitment to the right of equal treatment for all our citizens. While there have undoubtedly been some costs incurred, they are far outweighed by the benefits."

With the letter from the Governor of *New Mexico* was enclosed a publication of the League of Women Voters of New Mexico summarizing the more important statutory changes resulting from the State ERA, including the right for wives of co-management of community property.[52]

The experience with State ERA's is particularly reassuring. State courts in interpreting State constitutions do not have legislative committee reports and debate in the legislature as a guide to the intent of the provision in question, as Federal courts have in interpreting the Federal Constitution. Nevertheless the State courts have almost universally made decisions in accord with the legislative history of the Federal ERA.[53]

Furthermore, the State legislatures, contrary to the predictions of opponents, have acted responsibly in legislating to implement the State ERAs. Washington has completely revised its laws with no loss of rights for women. New Mexico has an almost completed revision.

Many States without State constitutional amendments have made numerous changes in their laws since 1972 to bring them into alignment with ERA requirements. Wisconsin passed an omnibus bill not only revising its laws but directing administrative agencies to bring all of the administrative code into compliance.

ERAMERICA

The many national organizations supporting the ERA, which had long recognized the need for a national ERA educational program and a single authoritative source to provide factual information about the ERA, asked the ERA Committee to play a catalyst role. In response the Equal Rights Committee of the Commission brought together the organizations supporting the amendment and experts in carrying on campaigns.

ERAmerica was the result. ERAmerica, co-

Footnotes at end of article.

chaired by Liz Carpenter and Elly Peterson, is a private umbrella organization, privately funded, and completely independent of the Commission.

The complete report of the ERA Committee's role in establishing ERAmerica appears in Part V.

CONTINUED NEED FOR ERA

While the debate about the ERA has led to many positive changes, these do not reduce the need for the amendment.

All of the laws could be easily changed, and new threats to equality of rights under the law could be mounted under new guises if a guarantee is not enshrined in the Constitution.

Furthermore, the new laws are not universal. For example, five of the eight community property States have given wives comanagement rights, but three have not. Only a few States have recognized the contribution of the homemaker as a factor to be considered in dividing property at divorce.

Another important reason why the ERA is necessary is the leverage it gives for seeking the fundamental changes in domestic relations and property law—changes that will achieve the Commission's goal of marriage as a full partnership.

ROLE OF MEDIA

Why, with the need established—an excellent legislative history and widespread support—has the ERA not already been ratified? It has the support of both parties, all recent Presidents, the American Bar Association, unions, church organizations, and practically all women's groups with a tradition of action in behalf of women.

A campaign to discredit the ERA, which has confused the public, has been mounted by ad hoc organizations, such as Stop ERA, Happiness of Womanhood, and Operation Awake. Statements of effects on the law of the ERA have been circulated. Many of the statements are distortions, half truths, or outright misrepresentations.

As Eileen Shanahan, the distinguished New York Times reporter, told a seminar for the press on the ERA,[54] it has been difficult for the press to report the ERA because the typically short press deadlines make it all but impossible to check out Phyllis Schlafly's "systematic misrepresentation." Mrs. Schlafly leads opposition to the Equal Rights Amendment.

Susan Dellar Ross, coauthor of a textbook Sex Discrimination and the Law and author of The Rights of Women, urged in the same seminar that the press must distinguish between policy and legal issues. Constitutional authorities should be consulted on legal issues, she said, and lay persons on policy issues.

Jill Ruckelshaus in a speech at the National Press Club on September 12, 1975, drew attention to the imbalance of media coverage that gives the same weight to the opinions of the Stop ERA forces as to the majority report of the Senate Judiciary Committee on the amendment. "This isn't a question of one opinion about the ERA having equal standing with a contrary opinion," she said:

"When the courts interpret the Equal Rights Amendment, they will not turn to a Stop ERA pamphlet; rather, they will look to the one authentic piece of legislative history we have: the Senate Judiciary Committee report on the Amendment, which answers well many of the questions Amendment opponents are raising. To balance a Stop ERA opinion against the Senate Judiciary Report is to be off balance in objective, informed reporting. The two just aren't equal, and to report them as such in the media is to give a misleading impression."

Again in an article in *The Bulletin of the American Society of Newspaper Editors* for March 1976, she stressed the importance of in-depth reporting:

"We are happy that many newspapers support ERA on their editorial pages, basing those endorsements on informed interpretations of what ERA will mean. But we are dismayed by the number of newspapers across the country which have not done an in-depth news analysis of ERA and which, either in ignorance or under a false assumption of fairness, have perpetuated inaccurate information spread by ERA opponents." [55]

When former Congresswoman Martha Griffiths and leaders of the opponents are quoted as equally credible authorities, the public is sadly misled. Congresswoman Griffiths was the leading proponent of the ERA in the House of Representatives and her views expressed there will be quoted by judges to support their interpretations of the ERA.

When a charge that the Colorado ERA has resulted in legalizing homosexual marriage is quoted without checking with Colorado authorities, the readers or hearers are denied the truth. This story, which has been repeated in many States, is typical of the misrepresentations. It is true that a local clerk issued marriage licenses to men, but it is also true that the Attorney General of Colorado held the licenses invalid.[56] It is also true that the District Attorney who advised the clerk thought the marriage law, not the ERA, authorized the licenses.

Another example of a misrepresentation that has gained widespread publicity is a charge that the Ohio Task Force Report for the implementation of the Equal Rights Amendment says that "ERA will require government-financed child-care centers . . ." [57]

The report says no such thing. The task force made recommendations for changes in law required to implement the ERA *and* changes that Ohio women wanted based on hearings throughout the State. It is clear in the report that the recommendation on child care is in the second category of desired changes. Even after this distinction was pointed out to opponents, they continued to make this false charge in speeches. Even a large number of letters to the editors by the Ohio Task Force cannot seem to catch up with this falsehood.

There are hopeful signs that some newspapers and radio and TV stations are attempting to give more sophisticated coverage. *The New York Times Magazine* for April 11, 1976, included an excellent article, "You'll Probably Think I'm Stupid" by Martha Veinman Lear,[58] describing the distortions and misrepresentations of the opponents.

On the other hand, the National Press Club ERA seminar referred to above attracted few reporters, although it was an excellent program designed to help reporters give intelligent coverage to the ERA.

ERAmerica and the Commission will continue to stress reliable in-depth media coverage, confident that an accurately informed public will assure that the required 38 States will have ratified by March 1979 the proposed 27th Amendment to the Constitution of the United States, the Equal Rights Amendment.[59]

FOOTNOTES

[42] Art. I, sec. 28, May 1971.

[43] *Di Florido* v. *Di Florido*, 331 A. 2d 174 (Sup. Ct. 1975).

[44] *Cooper* v. *Cooper*, 513 S.W. 2d 22g (Ct. of Civil Appeals, 1974). The following year the same court amplified its interpretation in *Friedman* v. *Friedman*, 521 S.W. 2d 111 with the following, It only provides that each parent has the equal obligation, in accordance with his or her ability, to contribute money or *services* which are necessary for the support and maintenance of his or her children" (emphasis supplied).

[45] Com. Ex. Rel. *Buonocore* v. *Buonocore*, 340 A. 2d. 579, 1975.

[46] The Wyoming and Utah provisions were adopted prior to 1900 and have not been interpreted consistent with modern understanding of an equal rights amendment. The Virginia amendment includes an exception permitting separation of the sexes and has been interpreted by the Virginia Supreme Court as permitting women to decline jury service without reason. The Illinois ERA uses the "equal protection" language of the 14th amendment to the U.S. Constitution, but the Illinois Supreme Court has interpreted the amendment in as strict a fashion as the courts of other States have interpreted ERA's worded like the Federal ERA. *People* v. *Ellis*, 311 N.E. 2d 98, 1974.

[47] Citizens' Advisory Council on the Status of Women, *Women in 1971*, U.S. Government Printing Office, Wash., D.C. 20402, p. 36.

[48] *People* v. *Green*, 514 P. 2d 769 (Sup. Ct., 1973). *People* v. *Medrano*, 321 N.E. 2d 97 (Appellate Ct. of Ill.., 1974). *Brooks* v. *Maryland*, 330 A. 2d 670 (Ct. of Spec. Appeals, 1975). *Finley* v. *Texas*, 527 S.W. 2d 553 (Ct. of Criminal Appeals of Tex., 1975).

[49] *Singer* v. *Hara*, 522 P. 2d 1187 (Ct. of Appeals, 1974).

[50] In a letter to the *Wall St. Journal* of October 29, 1975, the Governor's Commission said: "Rather than producing a loss of rights or privileges for our citizens, the Amendment has been a stimulus for constructive change, and has produced a greater equality of the sexes. Throughout the process of ERA implementation, there has been no intimation whatsoever that the legislature or the courts would thrust inequitable or preposterous measures upon the citizenry of Maryland." Copy of paper on implementation in Maryland is available from the Commission, Shaw House, 21 State Circle, Annapolis, Md. 21404.

[51] Paper on "The Impact of the State Equal Rights Amendment in Pennsylvania Since 1971" is available from the Pennsylvania Commission for Women, Office of the Governor, Harrisburg, Pa. 17120.

[52] Copies may be secured from the League of Women Voters of New Mexico, 219 Shelby St., Room 211, Santa Fe, N. Mex. 87501.

[53] For a discussion of the legislative history of the ERA and its importance, see *Women in 1973*, the annual report of the Citizens' Advisory Council on the Status of Women, U.S. Government Printing Office, Wash., D.C. 20402, p. 37.

[54] National Press Club, Seminar for the Media on the Equal Rights Amendment, Wash., D.C., Apr. 10, 1976.

[55] P. 8.

[56] Letter of Apr. 24, 1975, from Attorney General of Colo. to Honorable Ruben Valdez, Speaker, House of Representatives and call to Attorney General on Apr. 15, 1976.

[57] The *Phyllis Schlafly Report*, Nov. 1957, p. 1.

[58] P. 30 ff.

[59] At the time of this report, 34 States had already ratified the amendment.

EQUAL RIGHTS AMENDMENT COMMITTEE [8]

REPORT OF EQUAL RIGHTS AMENDMENT COMMITTEE [9]

The ERA Committee herewith presents the report of its activities looking toward the realization of the IWY Commission's number one priority—developing a factual and educational program focusing on the Equal Rights Amendment. The ERA Committee action is the culmination of the following process:

Executive Order of the President

The Executive order from the President of the United States was issued January 9, 1975, "establishing a National Commission on the Observance of International Women's Year, 1975." This action was taken as a result of Presidential Proclamation No. 4262 of January 30, 1974, which called upon

". . . the Congress and the people of the United States, interested groups and organizations, officials of the Federal Government

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Footnotes at end of article.

and of State and local governments, educational institutions, and all others who can be of help, to provide for the national observance of International Women's Year with practical and constructive measures for the advancement of women in the United States."

The function of the IWY Commission was delineated to read: ". . . it will focus attention on the need to encourage appropriate and relevant cooperative activity in the field of women's rights and responsibilities." Specifically, it continues, "The Commission shall take as its action agenda the relevant part of the resolution adopted by the United Nations General Assembly proclaiming 1975 as International Women's Year." The first consideration was "to promote equality between men and women."

In order to be truly representative of the concerns of the American public, the Executive order states: "The Commission shall encourage the public and private sectors to set forth objectives to be achieved as part of the program observing International Women's Year, as provided in the Presidential Proclamation." The IWY Commission was given the authority to ". . . establish within the limits of available funds, such subcommittees or working groups as may be necessary for the fulfillment of its tasks."

ERA Committee

In April 1975 the IWY Commission members were appointed and on April 14 and 15 the full IWY Commission met for the first time and chose ratifications of the Equal Rights Amendment as its top priority issue. Currently ratified by 34 of the 38 States necessary for it to become the 27th amendment of the U.S. Constitution, the ERA must be acted upon in State legislatures by March 22, 1979. The following resolution was unanimously passed:

The National Commission on the Observance of International Women's Year, as its first public action and highest priority urges the ratification of the Equal Rights Amendment.

We believe the prompt ratification of the amendment is essential to the realization of full equality for women and to the fulfillment of American democracy.

We commend the work of the thousands of women and men, in and out of government, whose dedication has brought the amendment so close to ratification.

As our main commitment to the observance of International Women's Year, we pledge to do all in our capacity to see that the Equal Rights Amendment is ratified at the earliest possible moment. We urge all Americans to join us in this effort.

To fulfill this commitment, an ERA Committee was established. Jill Ruckelshaus, Presiding Officer of the Commission, appointed Congresswoman Margaret Heckler and Alan Alda as the Co-Chairs. The Commission members appointed to the ERA Committee included Senator Birch Bayh, Patricia Carbine, Honorable Martha Griffiths, Audrey Colom, Casey Eike, Paula Gibson, and Clare Booth Luce. Public members with expertise in varied areas were also asked to serve on the ERA Committee.

Official ruling on ERA Committee's activities

The ERA Committee's first endeavor was to outline the parameters of their charge under the guidelines established for a Presidential commission. A ruling was requested from the General Accounting Office. In the opinion of the Comptroller General of the United States:

"The Executive order confers wide discretion upon the commission as to how it should, *inter alia,* actively promote equality between men and women. The Commission in the exercise of that discretion has resolved to favor ratification of the ERA. To effectuate the commission's resolution, the ERA Subcommittee intends to educate interested parties as to the impact of the amendment on sexual inequality in the United States and consult with experts on how to best communicate the facts about the ERA. In our view, the Subcommittee's planned activities are within the scope of the Executive order, both in letter and spirit."

The ERA Committee then began its task of developing a national program to communicate the facts concerning the ERA by creating a healthy atmosphere for discussion of the Equal Rights Amendment. The ERA Committee recognized the ERA as the necessary constitutional guarantee of legal equality for all Americans.

Request from nongovernmental organizations

Concurrent with the IWY Commission's interest in the ERA, many prominent organizations concerned with issues of significance to women were meeting to coordinate their efforts on behalf of ERA. These organizations included the National Federation of Business and Professional Women's Clubs, League of Women Voters, National Women's Political Caucus, National Woman's Party, American Association of University Women, Common Cause, National Organization for Women, and representatives from both church and labor coalitions.

The consensus from these organizations, representing a broad spectrum of the American public, was that a national ERA program was essential. The need for a single independent umbrella organization became apparent: To unify the many existing ERA programs and to draw together the available resources of expertise and talent and coordinate them for maximum effectiveness.

Thousands of women throughout the United States were calling for a single, authoritative source to emphasize the vital importance of the ERA to their futures. The facts supporting the necessity for the ERA are substantial, but the proposed amendment continues to be misrepresented and misconstrued.

The tentative structure for an independent ERA organization was formulated. However, all the separate units involved recognized the need for professional advice and for an outside force to act as convener and catalyst for the proposed organization. Because of its commitment to ERA, its own representative make-up, and because it was within the scope of the Executive order, the IWY Commission was requested to act in the catalyst role.

Role of IWY Commission

The ERA Committee determined that it must seek professional advice on a national ERA program to insure the best methods to attain its goal. The importance of such a program was further stressed by the results of a public opinion survey commissioned by IWY. The survey indicated that a majority of the women interviewed favored efforts to change women's status in society; however, a significant number of women were not familiar with the Equal Rights Amendment. Clearly an educational effort was appropriate.

To respond to the request of nongovernmental organzations and to guide the future role of the ERA Committee, a Consultant's Day was sponsored by the IWY Commission. Participants in this session included consultants from across the country with diverse areas of expertise, representatives from major national organizations, and labor and church coalitions. From this forum came the evaluation that a comprehensive ERA program would best be accomplished through an independent, national organization with the ERA Committee acting as catalyst.

Under the auspices of the ERA Committee, national organizations continued to meet to determine a viable structure for the new organization, utilizing the information received from the consultants. An efficient organizational plan was thus developed. To implement the plan, the most outstanding people available had to be involved. At the strong urging of Congresswoman Margaret Heckler and Alan Alda, two nationally prominent women, Liz Carpenter and Elly Peterson, agreed to serve as Co-Chairs of the new organization—ERAmerica.

The ERA Committee has performed the significant function of a convener and catalyst for ERAmerica, the independent focus for the Equal Rights Amendment.

ERAmerica

ERAmerica will be a separate entity from the IWY Commission. The independent organization anticipates an official announcement within the next month[10] defining its goals and strategy. This interim period is designed to gather the necessary financial resources from the over 100 organizations, representing a broad spectrum of the American public, that have endorsed the Equal Rights Amendment.

Substantial commitments of staff and office space have already been secured from the organizations that requested IWY involvement.

Summary

According to ERA Committee Co-Chairs Heckler and Alda,

"ERAmerica represents an extremely positive response for the Equal Rights Amendment, an issue vital to the future well-being of all Americans. The ERA Committee has fulfilled its mandate to the women of this Nation—to faithfully act in their interest to provide the best possible method to communicate the facts relevant to the Equal Rights Amendment. ERAmerica epitomizes our common goal. This organization holds the promise of future legal equality for all."

Text of Equal Rights Amendment

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect 2 years after the date of ratification.

FOOTNOTES

[8] IWY Commission members: Congresswoman Margaret M. Heckler and Alan Alda, Co-Chairs; and Senator Birch Bayh, Patricia T. Carbine, Audrey Rowe Colom, Casey Eike, Paula Gibson, Honorable Martha Griffiths, and Clare Boothe Luce. Public members: Candice Bergen, photographer and actress; Carol Burnett, actress; Diahann Carroll, actress; Howard Cosell, sportscaster; Ossie Davis, actor; Ruby Dee, actress; Lee Elder, professional golfer; Kay Faucher, President of Massachusetts Federation of Women's Clubs; Valerie Harper, actress; Robert Ludlum, author; Mary Tyler Moore, actress; Tony Randall, actor; Marguerite Rawalt, attorney and member of the 1961 President's Commission on the Status of Women; Marlo Thomas, actress; Ruth Thone, executive board of the Women's Campaign Fund; Gary Trudeau, political cartoonist ("Doonesbury"); and Nancy Wilson, singer.

Staff members: Mariwyn Heath and Ellen Boddie.

[9] Accepted by IWY Commission Jan. 15, 1976.

[10] Opening press conference, Feb. 25, 1976.

S. 3823—THE OMNIBUS RIVERS AND HARBORS BILL

Mr. GARY HART. Mr. President, in the next several days, we will have the difficult task of considering S. 3823, the Omnibus Rivers and Harbors bill. This bill authorizes funding for a number of diverse water projects for fiscal year 1978. Among these projects is the controversial Locks and Dam 26 replacement at Alton, Ill.

There are quite a number of questions which remain to be answered on this issue. There is the question of whether the existing facility is in good condition. Much of the evidence received by the Committee on Public Works suggests that the present locks and dam are structurally sound.

There is the question of whether it is costlier to repair the old structure or build a new one. The Corps claims that renabilitation of the old structure will cost more than building a new one, but two other engineering proposals submitted to the committee claim to be able to completely rehabilitate the facility for a fraction of the Corps' cost estimates.

There are questions on how this authorization will affect the pending NEPA litigation, and whether the Corps' assessment of the environmental impacts of this project is adequate.

While none of these questions have been satisfactorily answered, the committee has decided to go ahead without the answers.

But, perhaps the most perplexing problem involves the unanswered question of the economic justifications for the project. The Corps' justifications have been challenged by a wide range of witnesses before the committee, including the U.S. Department of Transportation. In addition, Dr. Robert Haveman, a well known economist submitted an 86-page statement to the committee outlining his objections to the manner in which the Corps has justified this questionable project, and I ask unanimous consent that Dr. Haveman's short synopsis of his testimony be printed in the RECORD at the conclusion of this statement.

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

(See exhibit 1.)

Mr. GARY HART. Mr. President, I opposed this project in committee because of the lengthy list of unanswered questions. Dr. Haveman's statement is a discussion of only one of these. I urge my colleagues to pay close attention to the debate on this project in the coming days to ascertain for themselves whether the Senate has information enough to approve this project.

The exhibit follows:

EXHIBIT 1

STATEMENT OF ROBERT H. HAVEMAN

Mr. Chairman, my name is Robert Haveman and I am a Professor of Economics at the University of Wisconsin-Madison. Currently, I am on leave from the University and am a Fellow at the Netherlands Institute for Advanced Study in The Hague. I have returned to the United States for the express purpose of testifying before this Committee.

My primary fields of research include benefit-cost analysis, water resource and environmental economics, and public finance. Prior to assuming my present position, I served as Senior Economist, Subcommittee on Economy in Government, Joint Economic Committee of the United States Congress and as a Research Associate at Resources for the Future, Inc., Washington, D.C. I have written twenty-five articles and six books in these areas (see partial bibliography, attached). Two of the books are benefit-cost analyses of water resources investment activities of the U.S. Army Corps of Engineers.

Today I wish to make a very simple, but exceedingly important point. It relates to this fundamental economic principle. *Because of the Corps' tactics in the ongoing controversy surrounding this project, this Committee and the Congress have been put in the unenviable, embarrassing—indeed, impossible—position of being pressured to approve a project for which no credible economic evaluation exists.* At a time in which increasing standards of responsibility, openness, and prudence are being demanded of the Congress—and within a year of passage of major budget reform legislation which embodies a commitment to objective evaluation prior to action—the Corps is asking your approval of a one-half billion dollar expenditure on the basis of (1) their statement that it is necessary, (2) an economic evaluation which a college sophomore would be embarrassed to submit as a term paper and (3) the pleadings of special interest groups which seek to be subsidized by U.S. taxpayers through this project. Congress' accession to the request for authorization must be interpreted as a capitulation to those vested interests.

Let me give you some evidence for my simple point. As you are well aware, litigation surrounding this project has been in process for nearly two years. In response to this opposition, the Corps has adopted tactics superbly designed to confuse and obfuscate the merits of the proposed replacement of Locks and Dam 26. They include:

1. The Corps has cited or issued at least 6 major reports on the project in two years time, totaling thousands of pages.

2. The Corps has shifted the basic rationale for the project from report to report—from provision of sufficient capacity to meet future needs to reducing delays for existing traffic to replacing a structure which has suddenly become unreliable from an engineering and safety standpoint.

3. The Corps has changed the size and design of the recommended project from report to report. Last year they proposed two 1200-foot locks in a new dam. This year they propose a build now-study later plan in which one 1200-foot lock would be built in now, with perhaps a second one added later.

4. The Corps has changed the relationship of the project to the proposed 12-foot channelization of the Upper Mississippi System—at first it was admitted to be a part of that long-run plan, now it is claimed to be but an individual project without relationship to the 12-foot channel.

5. The Corps changed the system of which this project is viewed to be a part—in 1974 construction of 15 additional locks was seen as necessary over the 50 years of project life for benefits to be realized; in 1975 construction at only 8 points was seen to be required; now, the Corps claims that no additional construction is necessary.

6. The Corps changed the estimated capacity of the existing facility—in 1974, the Corps argued that the capacity of the existing lock was 46 million tons per year; now they admit that it is 73 million tons and concede that it may be as much as 90 million tons.

7. The Corps has completely revised the economic framework for evaluating the benefits of the proposed project. In 1974, it was a lock-by lock analysis; in 1975, it was a partial system-wide evaluation with the reduction in delay costs accounting for 75 percent of total benefits; in 1976, it was a modified, partial system-wide analysis with no delay cost reduction benefits.

8. The Corps has altered the projection of future expected waterway traffic. In 1974, waterway traffic in 1985 was projected to be 77 million tons; in 1975, it was projected to be 85.8 million tons; in 1976, it was projected to be 76.2 million tons.

9. The Corps has changed the estimate of rate savings to shippers from an average of $3.97 per ton in 1974 to an average of $5.00 per ton in 1975.

10. The Corps has changed the amount which it will cost to rehabilitate the existing structure. In 1974, rehabilitation was estimated to cost $91 million; in 1975, it ranged from $346 to $402 million; in 1976, it was either $250 or $402 million.

11. The Corps has changed the estimate of the financial damage which the project will impose on other transportation modes. In 1974, it was zero; in 1975, an average annual revenue loss of $382 million per year was estimated; in 1976 the rail revenue loss was estimated to be $135 million per year.

12. The Corps has changed the method of analysis used to estimate capacities of the various alternatives. In 1974, the procedure used was a computer simulation model and an assumption that capacity was reached when average delays build up to 2½ hours per tow; in 1975, the procedure employed was a combination of the "full utilization" method and adjusted results from a non-systemic computer simulation model. Contrary to Corps' assertions, these procedures may not give similar results.

13. The Corps has changed the method used to measure the savings in delay costs. In 1974, delay costs were measured by estimating the wages, capital, and inventory losses from delays; in 1975, delay costs were estimated by increased transportation charges for shippers diverted from the waterway. As stated above, in 1976 there were no delay cost savings claimed. As a result, average annual delay cost savings were estimated to be $9 million in 1974 and $285 million in 1975.

As a result of the tactic of countering criticisms of weakness in studies by alternative, but equally weak, studies, the Corps has created a veritable grab-bag of conflicting analyses. This Committee and the Congress have been left holding that bag. Can this Committee go to the Congress and to the people and, without embarrassment, state that you know:

What the capacity of the existing facility is?

How much it will cost to rehabilitate that structure?

How much future waterway traffic will develop in future years?

What the rate savings to shippers will be?

How much reduction in delays and delay costs will be achieved?

What other complementary expenditures will have to be made to achieve the benefits of the facility?

What harmful economic effects the project will have on the railroads?

Whether the existing structure has engineering integrity?

I assert that you cannot. Any pie-in-the-sky figure you pull out from the Corps' grab-bag can be matched by an equally unreliable alternative Corps estimate. To require the American public to contribute one-half billion dollars to this enterprise with no more justification and evidence of economic effects than you now have in hand

will not go far in restoring the confidence of citizens in this Committee or the Congress.

Where then does the truth regarding the effect of this project on the economic welfare of U.S. citizens lie? I must admit that I do not know with confidence. The Corps' tactics have confused me as I suspect they have confused you. However, after studying in detail each of the Corps' analyses and examining their data and evidence and that of others, I do have some preliminary professional judgments on this proposal. These judgments must be preliminary because of the Corps' refusal to release much of the evidence and calculations on which their several analyses are based.

On the basis of all the evidence now available, my preliminary professional judgments are that:

1. There is no danger of the existing facility exhausting its capacity until at least 1990 and probably later, if modest improvements in operating procedures are installed and some of the practices of the bargeline industry inducing unnecessary congestion are curbed.

2. All of the Corps' projections of future waterway traffic are excessive—probably in the neighborhood of exaggerating 1972 to 1985 growth by 300 to 400 percent.

3. Existing delays at the facility are in a very real sense engineered by the Corps through its failure to undertake any action which could streamline the operation of the facility.

4. Corps estimates of rate savings are unreliable and misleading and exaggerate calculated benefits greatly. The study on which these estimates are based violates basic principles of estimation.

5. Corps projections of delay costs and delay times at the existing facility are ludicrous. Can anyone believe that shippers will wait an average of 2.5 weeks in order to pass through Locks and Dam 26 in the year 2000 when there are ready alternative means of transportation at hand?

6. Corps estimates of the costs of rehabilitating the existing structure are grossly *overstated*; those for replacing it are grossly *understated*.

7. Accepting the Corps' own data, *there are net benefits from delaying the start of construction until 1979. That is, the benefits of delaying an initial appropriation are in excess of costs.*

8. The quality of the economic data and analysis fails to meet minimal professional standards. It should be an embarrassment to the Corps; it would be to one of my students.

9. The Corps has failed to consider all alternatives for efficiently moving future traffic. In particular, the costs (mainly private) required of other modes to do the same task as the barge industry have been grossly misevaluated.

10. The Corps has seriously underestimated the adverse effects which the project will have on alternative transport modes and on the nation's efforts to build an efficient transport system.

In addition to these professional judgments. I have one confident forecast: if the Committee approves this project, the *same* estimates of benefits will reappear numerous additional times in justification of additional projects on the Upper Mississippi River System. They are regarded by the Corps as system and not project benefits. This project, then, is but the first in a series of 20 year proposals.

What then do I recommend? I have but two suggestions. Both of these suggestions are designed to protect this Committee and the Congress from becoming unwitting victims of the gross irresponsibility underlying this proposal.

1. This Committee should ask one simple question of both the Congressional Budget Office and the General Accounting Office—both arms of the Congress and both with extensive professional competence in the area of program and project appraisal. The question: *Does this Committee and the Congress have sufficient reliable information on the economic effects of this project on waterway shippers, railroads and other affected persons to provide a reasonable expectation that a favorable decision will be in the national interest?*

2. If the answer to this question is negative, the Committee should request the advice of these two offices on the nature and content of additional studies and analysis which should be undertaken prior to a decision.

As I have suggested, there is no need for a hasty decision. Indeed, the benefits of postponing a construction start outweigh the costs. There is time to obtain the analysis required for a sound and economic decision.

ALASKAN OIL

Mr. STEVENS. Mr. President, this morning the Senate Interior and Commerce Committees held joint hearings on the problems of the transportation of Alaskan oil. As I have discussed with the Senate before, it now appears there will be more oil on the west coast in 1978 when the Alaska oil pipeline reaches full initial capacity than the west coast can use. This extra oil is a national asset which must be used by those areas of the country which now depend heavily upon foreign oil.

There are a variety of proposals to allow the oil to be used by the rest of the Nation. The only one that offers real promise of being available when we need it and is suitable for continuing long-term use is a proposal by Sohio to convert an existing natural gas line to carry the oil from Long Beach, Calif., to Midland, Tex. That proposal can be available shortly after the surplus develops and will be completed at a very reasonable price. But opposition has surfaced to that line, allegedly based on a concern about air pollution in the Long Beach area. As I discussed with my colleagues yesterday, this opposition is really a smokescreen which diverts attention from what seems to be California's main interest, which is to stand in the way of use of this oil by the rest of the Nation.

Today, another article appeared which causes further concern about California's position on this matter. On the front page of the New York Times this morning a report on the California situation appeared which indicates that California's position remains to oppose the Sohio project.

But I am also pleased to report to the Senate that not everyone in California opposes this project. This morning, the Los Angeles Times contained an editorial entitled, "Letting the Oil In," which argues for allowing the Sohio project to proceed. The Times indicates that although the Sohio project is controversial, California should allow it to proceed so that California will be in a bargaining position when future energy shortages develop. I agree and urge those in California to carefully consider this problem.

I ask unanimous consent that both articles be placed in the RECORD.

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

[From the New York Times, Sept. 21, 1976]

CALIFORNIA SNUBS ALASKA OIL, FORCING UNITED STATES TO RECONSIDER

(By Edward Cowan)

SACRAMENTO, CALIF.—Unexpected opposition by the State of California to the delivery by tankers of Alaskan oil to a terminal near Los Angeles has forced Washington to reconsider basic assumptions concerning the long-awaited Alaska pipeline.

Environmental issues and also economic fundamentals, such as a projected West Coast oil surplus, have led Washington to consider whether United States oil from Alaska's Prudhoe Bay should be sent to Japan, rather than to California, or perhaps shipped via a permanent supply route through the Panama Canal to American refineries on the Gulf of Mexico and the East Coast.

California's position has stunned Washington inasmuch as there was no hint of it in the long bitter debate that preceded approval by Congress three years ago of the Alaska pipeline, a project the Government has counted on to diminish American dependence on foreign oil.

The Standard Oil Company (Ohio), which has the largest single interest in Prudhoe Bay's proven reserves of 9.6 billion barrels, wants to unload the oil at Long Beach, Calif., for pipeline relay to Texas and then onto refineries on the Gulf Coast and in the Middle West.

The Federal Energy Administration, although officially uncommitted, leans toward the Sohio proposal. California, however, contends that unloading 1.2 million barrels a day in 1977 and up to 1.6 million by 1980 could add hydrocarbons to the already dirty air of southern California.

Meanwhile, the unfolding Federal-state dispute over oil and the environment has taken on partisan overtones. Associates of Governor Edmund G. Brown Jr., a prominent Democrat who vied for his party's Presidential nomination earlier this year, have said Washington sees the problem too much through Sohio's lens.

Tom Quinn, chairman of the state's Air Resources Board and a political ally of Governor Brown, has presented the state's views in person and by letter to the Federal Energy Administrator, Frank G. Zarb.

Richard Maulin, chairman of the California Energy Commission, has suggested by letter to the Senate Interior Committee that exporting Alaskan oil to Japan "should be more carefully and objectively evaluated with respect to overall national economic costs and benefits before being prematurely rejected for ill-defined and questionable national security reasons."

Sohio has suggested that Prudhoe Bay oil could be exported to Japan as a "swap" for Persian Gulf oil that would be diverted from Japan to United States refineries. Essentially, such a swap would be an export in the usual sense, except for some small cost reduction that the American refineries presumably would realize and might possibility share with consumers.

Exportation of the oil or a swap, rather than delivery through California, would mean North Slope oil would not diminish United States dependence on imports of foreign oil, now running at more than six million barrels a day.

TRANSPORT TO BE AVAILABLE

American-flag tankers for temporary shipment of up to 250,000 barrels a day through

the Panama Canal are expected to be available for 1978–79, pending completion of an overland pipeline from Long Beach. An additional 100,000 to 400,000 barrels a day may be exported or moved to American refineries by some other means, perhaps by foreign ships.

The Federal Energy Administration, in a yet unpublished study, calculates the following delivery costs from Valdez, Alaska, to Houston refineries:

By tanker and by pipeline from Los Angeles $1.82 a barrel.

By tanker through the Panama Canal, $2.14 to $2.45, depending on ship size.

By very large crude carriers around Cape Horn, $2.65.

Also pending are proposals to build pipelines to deliver crude oil to "Northern tier" refineries in Minnesota, Wisconsin and Michigan. Crude oil supplies from Canada are to be cut back to zero by 1982. Lines from Kitimat, British Columbia, or Port Angeles, Wash., have been proposed, but it appears that neither would absorb the entire West Coast surplus of North Slope oil.

LIVELY POSTSCRIPT TO DEBATE

Because of its environmental economic and political ramifications, the dispute shapes up as a lively postscript to the long debate that culminated in passage of the 1973 law that authorized an oil pipeline from Prudhoe Bay to Valdez.

Although described as 80 percent complete, that 800-mile pipeline may be unable to start carrying oil on schedule late next year because of unresolved safety problems and possible delays in terminal construction.

Congress authorized the pipeline after being told by the Administration and the oil industry that Prudhoe Bay oil would be consumed on the West Coast. Now, it appears that there will be a large West Coast surplus of up to 800,000 barrels a day by 1980, and more later as production rises to 1.6 million barrels a day.

SENATE HEARINGS DUE MONDAY

According to the industry and the Administration, the surplus results from the big 1974 jump in oil prices and the resulting slowdown in the growth of consumption, plus the start in July 1976 of commercial production at the Elk Hills Naval Petroleum Reserve in California.

The Senate Interior Committee is expected to hold hearings next Monday on the whole issue.

Sohio plans to build a 200-mile pipeline across California to join with an 800-mile El Paso Natural Gas Company line from the Arizona border to Midland, Tex., El Commission for permission to stop its intermittent use of the line in order to lease it to Sohio. The energy agency is expected to support the application, California is expected to oppose.

California officials contend that Washington does not appreciate the severity of the air-pollution problem in southern California and that Federal energy officials are too sympathetic to Sohio.

Introducing a partisan note, Eli Chernow, a special assistant to Governor Brown, said in an interview: "It's hard to believe that Jimmy Carter would be as sympathetic to every claim of the oil companies as the Federal Energy Administratin and the Interior Department have been. Sohio asserts its interest. The F.E.A. seems to accept that as in the national interest without questioning whether the national interest might call for something else."

Mr. Zarb, the F.E.A.'s head, retorted: "I represent the agency, and I say that's nonsense"

Quoting Democratic Assemblyman Charles Warren, Mr. Chernow said: "What we have here is essentially a marketing problem for one company," Sohio.

Mr. Zarb said that in a July 29 meeting with Mr. Chernow and Mr. Quinn, the chairman of the Air Resources board, he told them, I was going to keep my mind open." Mr. Zarb also said that his agency's draft report on the problem would be sent to California and other states "for discussion."

The California officials have said they could not license unloading of big tankers from Alaska unless Washington wrote regulations adequate to protect the South Coast Air Basin.

That might be feasible, Mr. Zarb said, "if their requirements are rational and reasonable. I want to see specifically what they are."

Mr. Chernow accepted the Federal contention that it was not certain that the tankers would purge their empty tanks in port and push hydrocarbon vapors into the atmosphere. However, he said, "the risk is unacceptable."

[From the Los Angeles Times, Sept. 21, 1976]

LETTING THE OIL IN

Sometime early in 1978, valves will be opened and more than a million barrels of oil per day will flow southward through pipes from Alaska's North Slope into tankers' holds at the port of Valdez. The oil's route after that is still uncertain.

Standard Oil Co. of Ohio, which controls about half the oil, wants to build a supertanker facility in Long Beach harbor. Some of the Alaska oil unloaded there would be used in Southern California, but most would be shipped through gas pipelines, now idle, to Texas for further distribution throughout the central states.

Standard's proposal is controversial. Concerns have been voiced about the risk of oil spills, the possible worsening of air pollution, the takeover of pipelines that might be needed again for gas if California ever succeeds in securing bigger supplies from the gas fields of the Southwest. Many Californians would just as soon not have another big oil facility in the state.

We think the facility belongs in California—in a safe harbor like Long Beach, if the pollution problems can be overcome. If not, then somewhere along the California coast.

Few people enjoy looking at oil terminals, or smelling them, but the nation's and California's interests will both be served by having the facility here.

The nation needs it because the alternative is shipping the oil in smaller tankers—and at greater expense—through the Panama Canal to Texas, or selling the oil to Japan in exchange for Persian Gulf oil that has been contracted to Japan. Neither arrangement would reduce the vulnerability of America's energy supply in time of international upheaval, and reducing that vulnerability is a major goal of the massive efforts to develop Alaska's oil resources.

California should accommodate the terminal because the state's refusal to help in this national effort would surely cause trouble for California in future energy shortages, when Congress and regulatory agencies have to ration short supplies among competing regional demands.

Air-pollution questions have to be answered before a site is chosen. But the Long Beach site seems satisfactory in other ways. Oil spills are less likely there than at an exposed location along the open coast, and the gas pipelines that Standard wants to use are otherwise almost sure to remain idle, for natural gas is getting scarcer all the time in New Mexico, Oklahoma and Texas. California is unlikely ever to obtain substantial new gas supplies from that area.

Standard thinks it can avoid throwing new hydrocarbon pollution into the air from its proposed Long Beach oil complex, and it is conducting research now to verify that the facility can stay within strict limits. If the answers are positive, the company's plans should get favorable consideration. If not, California must find some other place within its borders to put the terminal.

SPACE SHUTTLE MAKES ITS DEBUT

Mr. LAXALT. Mr. President, last Friday, the Space Shuttle made its debut with a rollout ceremony at Palmdale, Calif. Among those attending was the distinguished Senator from Arizona (Mr. GOLDWATER).

The Senator from Arizona has been very active in the space program since its beginning. At the outset, he knew that the single-use launchers and spacecraft were an expedient—an expedient essential for the early years of the space program and to establish a "beachhead" in space.

And he, among others, recognized that beyond this initial phase, practical use of mankind's greatest of all frontiers would await, as Von Braun put it, "an airline type of operation." Practical exploitation of space would require a reusable vehicle such as the Space Shuttle.

At the Space Shuttle rollout ceremony, the Senator from Arizona made some remarks concerning the significance of this event which I ask unanimous consent be printed in the RECORD at this point.

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

SPACE SHUTTLE ROLLOUT

Dr. Fletcher, Dr. Low, distinguished guests and Star Trek fans. It is an honor to be present at the roll-out of the Space Shuttle "Enterprise."

I will make one prediction: there is going to be a great demand for a new kind of astronaut—one with pointed ears. And, NASA thinks it's got equal employment problems now. Just wait.

On history-making occasions such as this one, speakers often try to draw on history to point up the significance of the event. So, I asked the Library of Congress to research the date September 17 for its importance to aviation.

On September 17, 1911, Perry Rogers started out on the first cross country flight. At stake was a $50,000 prize offered by William Randolph Hearst for anyone who completed the flight by October 10. Rogers, flying a Wright Brothers' EX biplane "The Vin Fizz", finished after after the deadline and failed to get the prize. In fact, nobody got the $50,000.

On September 17, 1926, Army Air Corps Lieutenant, C. L. Williams, jumped out of a plane with a parachute and became the first man in the Hawaiian Islands to qualify for the Caterpillar Club.

At this point, I was getting very worried about September 17, until I found out that A. Scott Crossfield flew the X–15 for the first time reaching a speed of 1,400 miles per hour at 50,000 feet on that date in 1959.

Just 14 years ago, America put the first man in orbit around the Earth, John Glenn, who is now one of our highly esteemed Senate colleagues. Success in the Mercury pro-

gram was followed by the equally successful Gemini program. Manned space flight reached its zenith with the landing of Apollo 11 on the Moon in July 1969 fulfilling a national commitment and demonstrating to the world that the United States was first in science and engineering. Five follow-on lunar landings each exceeded the previous mission in scientific exploration.

We saw the "can do" spirit of our astronauts in saving Skylab. Moreover, they went on to establish new records in manned space flight as well as carrying out those initial experiments demonstrating the promise of future space activities.

At the same time, the Nation was carrying out an equally successful program in planetary exploration with flights to Venus, Mercury, Jupiter, and culminating in the remarkable two landings on Mars in recent weeks.

As we witness today the roll-out of the Space Shuttle, we are on the verge of a new era in space flight. A flexible and economical space transportation system will replace expendable launch systems. We will have routine access to space.

How many of us here today would have imagined 14 years ago that someday we would use the word "routine" to describe manned space flight?

I submit the Space Shuttle will present us with a remarkable opportunity to exploit the new frontier of space for the benefit of mankind and to continue to expand our knowledge of the space environment in which we live.

The Shuttle combines the best of our manned and our unmanned systems. It gives us a launch system for operational weather and communications satellites, but more than that it provides an opportunity for scientists to go into space to try out new ideas—ideas that will improve the quality of life for all. And, my friends, the money we have put into the Space Shuttle is going to be a better deal for America than the purchase of Alaska, which was a very good bargain.

Let us not forget the symbolic effect of the Space Shuttle here and abroad:

It stands for the recognition that our high standard of living depends upon new and better technology.

It stands for America's determination to maintain scientific and technological excellence.

And, it stands for an optimistic nation that looks to the future unafraid.

I believe there will come a day when each of us here will proudly say, "I was present at the roll-out of the Space Shuttle."

Mr. LAXALT. Mr. President, I see the Space Shuttle as symbolizing the beginning of an exciting era, the beginning of man's practical use of space for down-to-Earth benefits. To me, it is important to note that, as a technological achievement, great though it is, this craft can be compared to the first practical airliner—the DC-3. It is enormous in potential and a rich beginning—but only a beginning.

As with all technology, the best is and will always be something that is yet to come. Most important of all, the Space Shuttle will have a symbolic effect here and abroad, because as the Senator from Arizona states:

It stands for an optimistic nation that looks to the future unafraid.

TRIBUTE TO SENATOR PASTORE

Mr. FONG. Mr. President, today I salute our friend and colleague, JOHN O. PASTORE, the senior Senator from Rhode Island who retires in January.

In JOHN PASTORE and his political career, we have one of the brightest examples of the fulfillment of the American dream in authentic Horatio Alger style. JOHN was born in a poor Italian neighborhood of Providence. His father, a tailor by trade, died when JOHN was only 9 years old, leaving the lad as the man of Ermina Pastore's family.

From this humble and sad situation, JOHN PASTORE, through hard work, determination, and keen intelligence, went through high school, then on to Northeastern University night law school, and subsequently was admitted to the Rhode Island bar. His rise in politics was spectacular. After being elected to the Rhode Island State House of Representatives, he became successively assistant attorney general of the State, Lieutenant Governor, Governor from 1945 to December 1950, when he resigned after being elected to the U.S. Senate.

For more than a quarter century, JOHN PASTORE has been an effective and able Senator, not only for Rhode Island, but for the entire United States. He has been responsible for much of the legislation guiding the development of radio and television to serve the public as a whole.

In connection with the landmark legislation he helped write, the Federal Election Campaign Act, which became effective in 1972, it was staunchness which prevented alteration of the so-called fairness doctrine.

His influence in guiding the development of the broadcast media comes from his chairmanship of the Communications Subcommittee of the Senate Commerce Committee, a position held since 1955. He also serves with great effect on the Senate Appropriations Committee and the Joint Committee on Atomic Energy.

As chairman of this Joint Committee, the senior Senator from Rhode Island is known as one of the most knowledgeable on Capitol Hill on atomic energy matters. As early as 1955, President Eisenhower appointed him a delegate to the General Assembly of the United Nations, and as such he helped draft the U.S. resolution which first sponsored the International Atomic Energy Agency. He has also played an important role in passage of the Energy Reorganization Act of 1974, which reorganized and consolidated certain functions of the Federal Government in a new Energy Research and Development Administration and the new Nuclear Regulatory Commission.

It has been my privilege and pleasure to have known the fine Senator from Rhode Island since my arrival in Washington in 1959 as one of Hawaii's two statehood Senators.

As he and I prepare to leave for our respective homes and retirement, I extend my warmest best wishes and fond aloha to JOHN PASTORE, his gracious wife Elena, their three children, and their respective families.

JIMMY CARTER'S TAX PROPOSAL

Mr. GARN. Mr. President, tax reform should certainly be on our minds, what with the 1,500 page mouse the congressional mountain has labored to produce this year. If it is not on our minds, I suspect our constituents will remind us of it as soon as we go home and hit the hustings. The Presidential candidates have already found out how close the subject is to the hearts and minds of the voters in this election year, and some of them have produced a fair amount of nonsense about tax reform.

There is a common delusion, shared and nourished by politicians such as Jimmy Carter, that there are hordes of filthy rich running around America sucking blood from the poor and grinding their faces in the dust. It is this delusion that led candidate Carter into promising the voters in an Associated Press interview released last Sunday, that, if elected he would seek to shift the burden of taxes "toward those who have the higher incomes and reduce the income tax on the lower income and middle-income taxpayers."

I understand that the AP originally did Mr. Carter a disservice by omitting the critical "and middle-income" from the quotation, but even putting it back does not save the proposal. Carter went on the same day in Kansas City to promise that—

We will shift the burden of taxes to where the Republicans have always protected—onto the rich, the big corporations and the special interest groups.

There are, of course, ethical and philosophical questions involved in progressive taxation, but today we are concerned with the practical aspects of political proposals. Mr. Carter is quite right to point out to reporters that he cannot, in the heat of the campaign, work out the details of his tax proposal, so that each individual could figure out his average and marginal tax rates under the Carter proposal. But we do have a right to expect, before a candidate makes statements of this kind, that he look into the question sufficiently to decide whether the proposal can at least be accomplished. In other words, we are justified in asking the candidate if his proposal is theoretically possible, and insisting on an answer to that question. In the case of Mr. Carter's tax proposal, there is considerable evidence that the proposal is not possible.

To dispose of two subsidiary points first, Mr. Carter is going to shift the burden to "the rich, the big corporations and the special interest groups." As every economist knows, corporations do not pay taxes. Taxes are one of the costs of doing business, and they are simply passed on to the consumer in the form of higher prices or lower wages. They are not without effect, for they do influence patterns of investment and the allocation of resources. In fact, some of the worst of the "loopholes" Mr. Carter (and Senator KENNEDY) complains about were pushed through the Congress as a result of corporate taxes; they are some of the distortions which flow from corporate taxes.

But the fact remains, Mr. President, that taxes cannot be levied on corporations. People pay taxes, whether Mr. Car-

ter likes it or not. Consequently, to shift taxes onto corporations is to shift them to consumers, and there are more poor consumers than there are rich ones. Thus this part of Mr. Carter's proposal is a proposal for higher prices, to be paid disproportionately by the poor, and not a proposal for lower taxes.

The term "special interests" is just a word used by politicians to excite envy and anger in the electorate. As John Gardiner of Common Cause remarked in an article in the Washington Star last Sunday, we are all members of special interest groups. For instance, homeowners as a group benefit from the mortgage interest from taxable income. Homeowners are, therefore, a special interest group, but I doubt that Mr. Carter is proposing an end to their particular "tax loophole."

Those who receive social security benefits are also a special interest group which receives an exemption of its retirement benefits from taxable income. Would Mr. Carter close that loophole? And what about peanut farmers?

The point is not that there should not be tax reform, but that loose talk about special interest groups and how they should pay more taxes does not get us very far. We need to know specifically which groups and which loopholes Mr. Carter is going to attack, and on those specifics, he is characteristically vague.

And now to the main business at hand, shifting the burden of taxation to "the rich." The press is to be commended for the critical look it is giving to Mr. Carter's proposal, just as it looked critically at Senator McGovern's "demogrant" proposal 4 years ago. For instance, writing in the Washington Post this morning, Peter Milius notes that the Carter proposal is up against the same fact which sank the demogrant: you very quickly run out of rich people to soak. As Mr. Milius puts it:

> The "rich" in America include a lot of families who think of themselves and are commonly thought of as no more than middle-income.

Now there is no doubt that someone with an annual income of $30,000 is better off than someone with an income of $8,000. But he is not so much better off that we normally think of him as the kind who needs to be "soaked" in order to relieve the tax burdens of the working poor. The rich we usually think of as needing to be soaked are those bathing in champagne and flying off to Buenos Aires for breakfast twice a week. The problem is that there just are not many of them. Only 815,000 taxpayers in 1974 had incomes above $50,000. And even $50,000 will not get us champagne baths.

The same points have been made in much more detail in an article in the spring 1976 issue of the Public Interest by Dr. Edgar K. Browning of the University of Virginia. The article is entitled, "How Much More Equality Can We Afford?" and it makes some interesting points.

One is that there is a great deal more equality today than there used to be, in part because of redistributive policies of the Government, including the in-kind transfers, such as food stamps, which are often overlooked, in part because of the general economic progress of the Nation.

Another is that it is virtually impossible to redistribute any additional income in the United States without producing undesirable effects on productive impulses. That is so because of the impact of tax increases on marginal tax rates, especially for those at the top and bottom of the income distribution. Too few individuals understand the difference between "average" tax rates and "marginal" tax rates. Average rates are clear enough, but we should all understand that marginal rates refer to the percentage taken by taxes of any additional income. For instance, the average tax of an individual in the 50-percent bracket may be only 20 percent. But if that individual earns $1 or more, he will get to keep only half of it. Obviously, such tax rates do have an impact on productivity, incentive, and risktaking.

The Browning article is somewhat technical, but understandable, and I am going to ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

In summary, it concludes that we can redistribute, say, another 1 percent of national income, but with one or two undesirable effects. On the one hand we can do it increasing the marginal tax rate on the "poor" so steeply that incentives are destroyed, or we can do it by including in the redistribution those who are far from poor.

In short, Mr. President, tax reform is complicated by the amount of redistribution which has already taken place in the United States. There is just no more blood left to be squeezed out of that turnip. If we are to have tax reform in the future, it is going to have to proceed without the demagogic devices now in use.

A recognition of the amount of redistribution is essential, with proper attention given to the importance of in-kind transfers. And the impact of a properly growing economy must not be underestimated. For instance, Browning estimates that the redistribution of 1 percent of national income in the United States, assuming it could be accomplished without destroying incentives, would result in an increase in the standard of living of the low-income families of only 12 percent. Increases of this magnitude were accomplished every 3 or 4 years by the natural growth of the economy, without increases in marginal tax rates, until fairly recently.

And that fact, Mr. President, suggests some real tax reform which is needed: That is a climate favorable to the investment and capitalization which can produce the jobs and products necessary to a rising standard of living. Instead of trying to divide up a shrinking pie, it is time for us to cut taxes drastically, to allow the pie to grow. I am happy to see that President Ford has made such a proposal, although the Congress has refused to act on them in the past. There is no way to redistribute income without seriously affecting the "middle-income taxpayer," and in my view, we should stop exciting the passions of the voters and get busy making it possible for people to save, invest, and produce.

I ask unanimous consent that the entire Browning article mentioned be printed in the Record.

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

HOW MUCH MORE EQUALITY CAN WE AFFORD?

(By Edgar K. Browning)

It is probably true, as *Business Week* recently reported, that "the greatest single force changing and expanding the role of the federal government in the United States today is the push for equality." Although some government statistics misleadingly indicate otherwise, it is clear that the distribution of income has become dramatically more equal in recent years as a result of egalitarian policies. Moreover, the massive redistribution currently taking place each year makes it very costly to attempt to move still further toward equality. I will show why by examining the economic and ethical implications of additional redistribution.

HOW UNEQUAL ARE INCOMES?

One popular index of inequality is the number of Americans officially classified as poor. In 1973, there were 23 million people classified as poor, only one third less than the 33 million in 1965. Yet there has been a tremendous expansion in government programs designed to aid the poor during this period: Social welfare expenditures by all levels of government rose from $77 billion in 1965 to $215 billion in 1973. Many people have been troubled over how such a massive commitment of resources could produce such a small reduction in the number of poor Americans.

The major reason for the apparent persistence of poverty in the face of such expenditures lies in the definition of poverty itself. A family is officially poor when its *money* income falls below a certain level—$4250 annually for a family of four in 1973, for example. Thus, because government programs dispensing benefits in the form of specific goods and services ("in-kind" transfers) do not and, cannot raise *money* incomes, they are unable to move families out of poverty, so defined. Interestingly, government in-kind transfers have expanded at a much more rapid rate in recent years than have cash transfers, following the growth of medicare, medicaid, food stamps, housing assistance, and job training programs. Table I shows this clearly in the breakdown of federal transfers to the poor for several recent years. (These tabulations give *only* those federal transfers that actually reach the poor, and not total spending on the various programs.) To see clearly why the number of poor Americans has not declined more rapidly, note that in-kind transfers per poor person rose from $42 to $657 between 1964 and 1973—or by 1464 per cent! These resources are not counted as income in the official definitions of poverty. In contrast, cash transfers, which are counted as income, rose by only 172 per cent.

TABLE I.—FEDERAL OUTLAYS BENEFITING THE POOR, SELECTED FISCAL YEARS[1]

	1964	1966	1969	1973
Federal outlays (billions):				
Cash payments	$6.4	$7.1	$8.2	$11.1
Food and housing transfers	.3	.3	.7	3.5
Education	.1	.6	1.2	1.9
Health	.7	.8	3.5	5.4
Manpower	.2	.9	1.4	2.5
Other	.2	.5	.9	1.9
Total	7.9	10.3	15.9	26.2

Footnote at end of table.

TABLE I.—FEDERAL OUTLAYS BENEFITING THE POOR, SELECTED FISCAL YEARS [1]—Continued

	1964	1966	1969	1973
Total Federal cash transfers (billions)	$6.4	$7.1	$8.2	$11.1
Total Federal in-kind transfers (billions)	1.5	3.2	7.7	15.1
Federal transfer per poor person	219	361	660	1,139
Federal cash transfer per poor person	177	249	340	482
Federal in-kind transfer per poor person	42	112	320	657

[1] Source: U.S. Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evaluation, Office of Program Systems, "Federal Outlays Benefiting the Poor—Summary Tables," (March 1974), table 1.

Clearly in-kind transfers should be counted as income in defining poverty. If a $1000 cash transfer to a poor person—who proceeds to spend it on food, housing, and medical care—reduces poverty, then so does $1000 worth of these goods provided outright (or at subsidized prices). When-in-kind transfers (exclusive of public education provided by state and local governments) are counted as income, the average poor family in 1973 had an income that was approximately 30 per cent above the poverty line.[1] In terms of the average income of officially poor families, there is practically no poverty—statistically speaking—in the United States today and, indeed, there has not been for several years. It only remains for our accounting procedures to be modified to record this achievement.

Many people object to an emphasis on the number of poor Americans because the poverty lines are fixed in terms of real incomes. Consequently, a poverty-level income falls as a percentage of average income when the average rises over time as a result of economic growth. This suggests that it may be better to consider what happens to the incomes of poor people relative to the incomes of others. Table II shows a popular method of looking at the relative distribution of income. It gives the share of total money income received by families whose incomes place them in the lowest 20 per cent (lowest quintile) of the income distribution, the second lowest quintile, and so on. Not only do these figures suggest a large degree of inequality in each year, but, of more interest, they indicate that the shares of income received by the various quintiles have changed remarkably little over this 20-year period. It is this distribution which has led many observers to conclude that the distribution of income has not become significantly more equal since World War II.

This conclusion is, however, almost certainly wrong. Once again, a major part of the problem is that the Census Bureau's measures of income are based on a definition that includes only money incomes, and excludes in-kind transfers and benefits of public education. In addition, the figures are based on incomes before payment of direct personal taxes, and no adjustment is made for differences in average family size among the quintiles. Table III gives the percentage shares received by quintiles after adding in-kind transfers and education, subtracting income and social security taxes, and converting to a per capita distribution. As shown in Table III, the distribution of income is much more equal than the Census figures in Table II suggest. In 1972, for example, the adjustments more than double the share of the lowest quintile, raising it from 5.4 to 11.7 per cent.

TABLE II.—RELATIVE INCOME DISTRIBUTION (EXPRESSED AS PERCENTAGE SHARE OF TOTAL MONEY INCOME RECEIVED BY FAMILIES, BY QUINTILE) [1]

Year	Lowest quintile	2d quintile	3d quintile	4th quintile	Highest quintile
1952	4.9	12.2	17.1	23.5	42.2
1962	5.0	12.1	17.6	24.0	41.3
1972	5.4	11.9	17.5	23.9	41.4

[1] Source U.S. Bureau of the Census, "Money Income in 1972 of Families and Persons in the United States," Current Population Reports, series P-60, No. 90 1973), table 16.

Not only is the distribution of income more equal in each year than is indicated by the Census figures, but there has also been a marked trend towards equality over the 20-year period. This is particularly apparent for the lowest quintile, whose share rose from 8.1 per cent in 1952 to 11.7 per cent in 1972, an improvement of 44 per cent in the relative position of low-income families. Most of this gain occurred since 1962, largely as a result of the expansion of education benefits and in-kind transfers. In fact, by 1972 government transfers had become the largest source of income for low-income families. More than two thirds (about $50 billion) of the net income of families in the lowest quintile was in the form of cash transfers, education benefits, and in-kind transfers.

TABLE III.—ADJUSTED RELATIVE INCOME DISTRIBUTION (EXPRESSED AS PERCENTAGE SHARE OF INCOME RECEIVED BY QUINTILE) [1]

Year	Lowest quintile	2d qunitile	3d quintile	4th quintile	Highest quintile
1952	8.1	14.2	17.8	23.2	36.7
1962	8.8	14.4	18.2	23.1	35.4
1972	11.7	15.0	18.2	22.3	32.8

[1] Source: Derived from estimates presented in my "The Trend Toward Equality in the Distribution of Net Income," Southern Economic Journal (forthcoming).

INCENTIVES AND MARGINAL TAX RATES

Of the many factors to consider in evaluating redistributive programs, none is more important than the impact on the incentives of taxpayers and transfer recipients to continue producing income. If incentives are dulled sufficiently, the outcome is a reduction in the total size of the income "pie," and more equal shares of a smaller total can result in lower incomes for taxpayers and transfer recipients alike. The most common way tax and transfer programs affect incentives is through the application of high marginal tax rates to income. To understand why, it is necessary to distinguish clearly between marginal and average tax rates.

Such the government wishes to collect $4000 in taxes from a person earning $20,000. It can set out to accomplish this by exempting $15,000 (so taxable income is $5000) and applying a flat rate tax of 80 per cent on taxable income. If the person continues to earn $20,000, he will pay $4000 in taxes. Thus his average tax rate is 20 per cent; however, his marginal tax rate is 80 per cent—i.e., for each additional dollar earned above $15,000, the taxpayer keeps only 20¢. To illustrate the relationship between high marginal tax rates and work incentives, note that if the taxpayer earns $5000 less, his taxes fall by $4000. Thus, by sacrificing only $1000 in net income he could take a vacation for a fourth of the year. In this way high marginal tax rates make it much less expensive for a person to earn less—that is, they weaken the incentive to continue expending as much effort to acquire income. Average tax rates may also have some independent effect, but it is high marginal tax rates that are most likely to undermine incentives. As we shall see, redistributive programs usually involve extremely high marginal tax rates, even though average tax rates may be relatively low.

High marginal tax rates are often applied to beneficiaries of government transfers, but these rates are usually hidden in the benefit structure of the program. If the transfer a family receives is reduced when family income is increased, then this reduction in benefits has exactly the same effect as a marginal tax rate applied to income. Suppose, as is actually true in several programs, that the transfer received is reduced by $1 for every $2 earned. Then when earnings increase by $2, disposable income goes up by only $1, exactly the same as when a 50 per cent marginal tax rate is applied to earnings.

In terms of marginal tax rates, a policy of complete equality implies marginal tax rates of 100 per cent for everyone. In this case, a person's net income would not increase if he earned more and would not fall if he earned less, or even if he earned nothing. Thus, there would be no financial incentive for anyone to work. It is an understanding of the full implications of this that has led most scholars to conclude that marginal tax rates must be kept well below 100 per cent to preserve adequate incentives. This, of course, is tantamount to concluding that complete equality is undesirable.

I have been emphasizing how marginal tax rates tend to weaken work incentives of both taxpayers and transfer recipients. Actually, high marginal tax rates are inimical to productivity in general, and not just to the amount of time people work. Consider a few examples of other types of incentives that can be undermined by high marginal tax rates. The incentive to undertake job training or get a good education is weakened since the student will get to keep only part of the higher income that a better education makes possible. Insofar as the return to savings is also subject to tax, the flow of savings, so important to economic growth, can be adversely affected by high marginal tax rates. Occupational choices can also be influenced: People will be led to take lower paying jobs that do not involve as much risk or responsibility. Earlier retirement, longer vacations, and lower labor-force participation by secondary workers are other plausible responses to high rates.

Greater conversion of income into nontaxable forms (through the use of tax loopholes), and even emigration to other countries can result when the tax rates get high enough, as has recently been the case in England. Thus, there are many ways a person can utilize his skills and resources to maintain and increase his income, and high marginal rates affect all these activities. Although it is convenient to conceptualize the problem by thinking in terms of work incentives, it should not be forgotten that the incentives issue really relates to productive activity in general.

THE IMPACT ON LOW-INCOME FAMILIES

As a result of the multitude of tax and transfer programs now in existence, marginal tax rates are already very high for most people, but especially for those with very high and very low incomes. Before explaining how high the rates are, it should be stressed that the marginal tax rate relevant for incentives is the combined rate which results from all the separate taxes and transfer programs

[1] For a fuller discussion of the statistics concerning income distribution, see my *Redistribtuion and the Welfare System* (American Enterprise Institute, 1975), and "The Trend Toward Equality in the Distribution of Net Income," *Southern Economic Journal* (forthcoming). This estimate (as well as the ones given in Table III) counts as income in-kind transfers valued at market cost. Since an in-kind transfer may be worth less to the recipient than its market value, these estimates do not purport to measure benefits. It should be stressed, however, that the money income figures in Table II also do not measure benefits, since people may be led to spend their money incomes in ways they would prefer not to if their decisions had not been distorted by various provisions in the tax laws.

applied to a family. As an example, a family in a 20-per-cent federal income tax bracket and a five-per-cent state income tax bracket is subject to an effective marginal tax rate of 25 per cent, and it is this rate that is instrumental in affecting its economic behavior.

Since federal, state, and local taxes combined are now 35 per cent of net national product (national income), it seems clear that many taxpayers face marginal tax rates approaching 50 per cent. (Marginal rates will often be higher than this overall average rate of 35 per cent due to progressivity in the tax system.) Effective marginal tax rates are probably lowest for families with incomes near the average of about $15,000, but even at this income level, the combined effect of federal and state income taxes, social security, sales, excise, and property taxes will produce rates of at least 35 per cent. At higher income levels, effective rates will be even higher, perhaps reaching 60 per cent for a relatively few families. Most upper-income families are probably confronted with rates in the neighborhood of 40 to 50 per cent, however.

Therefore, effective marginal tax rates are already quite high for middle-income and upper-income families, ranging between 35 and 50 per cent, with a small proportion paying still higher rates.[2] As higher as these rates are, however, low-income families are paying even higher marginal tax rates!

The major reason low-income families face higher marginal tax rates than most other Americans is that poor families receive numerous transfers that are inversely related to their incomes. As pointed out earlier, when the amount of assistance falls as a family's own income increases, this is equivalent to applying a marginal tax rate on income. There has been a substantial growth in programs of this type in recent years. The more important of these programs are food stamps, housing subsidies, medicaid, Aid to Families with Dependent Children, Supplemental Security Income, and Social Security. The implicit marginal tax rates used, of course, vary among these programs. Housing subsidies typically use a rate of 25 per cent, Supplemental Security Income a rate of 50 per cent, and Aid to Families with Dependent Children, a rate of 67 per cent.

The individual rates in these programs are fairly high, but the effective rates for most low-income families can be even higher, for two reasons. First, low-income families also pay explicit taxes in the form of social security taxes, sales taxes, and so on. Second, and becoming increasingly important, many families are receiving benefits from several transfer programs simultaneously. As an example, a family receiving food stamps, with the implicit marginal tax rate of 25 to 30 per cent, will still pay social security, excise, sales, and possibly state income and other taxes. As a result, the effective marginal tax rate would be about 45 per cent. Even though this family may have an income too low to be subject to the federal income tax, its effective tax rate exceeds that of most middle-income and upper-income families. For families receiving transfers from other programs, and especially when a family receives aid from more than one program, effective marginal tax rates can exceed 70 and even 80 per cent.

It is a difficult matter to generalize about the "typical" effective marginal tax rate for low-income families since the rate can be expected to vary with the type and number of transfers received. Nevertheless, the rates for most families are clearly very high. A family receiving only food stamps faces a rate of about 45 per cent, while most families receiving aid under other programs, or a combination of programs, will face even higher rates. Recognizing the wide variation among families, my guess is that 65 per cent is the effective marginal tax rate confronting the "average" low-income family.

To avoid any misunderstanding, let me repeat that we are considering marginal, not average, tax rates. The average tax rate for low-income families is a large negative number, reflecting the very considerable net redistribution in their favor. Thus, they are not "burdened" in the usual sense by the high marginal rates they pay. Instead, this high rate is simply a consequence of the redistribution taking place through the various welfare programs. While the marginal rate is relevant in evaluating the incentive effects of the system, it is the average rate which is a better indication of the effects on the welfare of the recipients.

At present, then, effective marginal tax rates are already very high, especially for low-income families. Additional redistribution will produce surprisingly large increases in these rates, both for taxpayers and recipients, as we shall see.

THE EFFECTS OF REDISTRIBUTION

That a greater volume of redistribution would result in higher marginal tax rates is obvious, but the exact relationship between the amount of redistribution and the necessary rate increases is far from obvious. Many observers of American society have implied that our wealthy society could easily afford to redistribute another, say, one or two per cent of national income to low-income families. Yet redistributing even one per cent more will probably require marginal tax rates to rise by at least 10 percentage points for most, and possibly all, families. It may appear surprising that transferring only one per cent of national income to low-income families would lead to such an increase in tax rates, and that is why it is worth considering the relationship in some detail.

It may help to begin with an example. Suppose transfers totaling one per cent of national income are made to families with income below $5000. Suppose further that these families have incomes averaging $3000, and that one per cent of national income will finance a transfer of $2000 per family. What this implies is that one per cent of national income is sufficient to raise every family with an income below $5000 up to $5000. In other words, we could make a transfer of $5000 to a family with no income of its own, a transfer of $4000 to a family with a $1000 income, and so on up to a transfer of $1 to a family with $4999. Note that this describes a transfer program with a marginal tax rate of 100 per cent; the transfer falls by a dollar for every dollar of additional earnings. Thus, when we attempt to concentrate a seemingly small proportion of national income on a relatively small number of low-income families, the impact on their marginal tax rates can be surprisingly great. Although the numbers chosen are hypothetical, they do represent fairly accurately the true nature of the problem.

It might be felt that a different type of transfer program would not require marginal rates of 100 per cent. For instance, suppose that a transfer of exactly $2000 is made to every family with income below $5000. A family with a zero income would receive $2,000 and so would a family with $5,000, thus implying a zero marginal tax rate; benefits don't fall with income. Is this a way to avoid the incentive problem? As long as we are considering a redistribution only to families with incomes below $5,000, the answer to this question is definitely no. The incentive difficulties are just shifted to a different income range. Note that, under this scheme, a family with $5000 earned income would have a net income of $7000, but families earning from $5001 to $6999 would actually have lower net incomes, since they would receive no transfers. Not only is this inequitable, but it creates a tremendous incentive for all those earning between $5000 and $7000, as well as some earning above $7000, to reduce their earnings to $5000 and collect a $2000 transfer. The abrupt termination of transfer payments at $5000 creates what is called a "notch" problem, indicating the discontinuity in the relationship between earned and net income that occurs at $5000. Most analysts agree that the consequenses of such "notches," both for equity and efficiency, are worse than the high marginal tax rates that they only seem, on a superficial inspection; to avoid.

To avoid such a notch at $5000, the transfer per family must be gradually tapered off until it ultimately reaches zero when family income reaches $5000. It is this gradual tapering off of the transfer payment that produces the marginal tax rate in the program. And when transfers are made only to low-income families, the transfer must be reduced very rapidly as income rises, to make sure the transfer falls to zero at the "breakdown income level" (the income level at which the net transfer is zero) of $5000. Hence, the marginal tax rate in such a program will then tend to be very high.

As long as transfers are to be made only to families with incomes below a relatively low level, like $5000, any substantial redistribution implies either very high marginal tax rates or a "notch" problem, which is just as bad. This should explain why the tax rates are so high for low-income families in the United States. The high rates are simply the sizable transfers on these families. It will be recalled that the marginal tax rate for the average low-income family is probably about 65 per cent, even though only about four per cent of national income is being redistributed to families in the lowest quintile of the income distribution.

THE COSTS OF REDISTRIBUTION

Now that we understand why tax rates of recipients are so sensitive to the amount redistributed, we can move on from our hypothetical example to the actual situation in the United States. Suppose, then, that we wish to redistribute one per cent more of national income to families in the lowest 20 per cent of the income distribution. One per cent of national income is $13 billion, an average of about $1200 per family for the 11 million families in the lowest quintile. This group contains families with money incomes below approximately $7000 (but net income including in-kind transfers would be higher), and these families now face a wide range of marginal tax rates that average about 65 per cent. How high must marginal tax rates rise with an additional redistribution of $13 billion? By now, perhaps, it will come as no surprise to learn that marginal rates would have to rise to approximately 100 per cent, or slightly more. I do not think it is necessary to belabor the point that the economic effects—not to mention the social and political ones—of such high rates would be unacceptable. Thus, given the present size of the United States welfare system, any substantial additional redistribution concentrated on the lowest quintile would result in prohibitively high marginal tax rates.

There is one way to redistribute more to low-income families without such a great increase in their tax rates, and that is to extend transfer payments to families with incomes above $7000. By raising the "break-even income" of the additional redistribution, the transfer payment per family can be tapered off more gradually as income rises, thus implying a smaller increment in marginal tax rates. For example, we might redistribute an additional one per cent of na-

[2] I have examined in more detail the effective marginal tax rates confronting families that pay federal income taxes at different income levels in "The Marginal Cost of Public Funds," *Journal of Political Economy* (forthcoming).

tional income to families with incomes below $10,000, thereby using a breakeven income of $10,000 instead of $7000. However, this program would still require marginal rates to rise by 15 percentage points for all families with incomes below $10,000. For low-income families the increase is from 65 per cent to 80 per cent, and for families close to $10,000, from about 35 per cent to 50 per cent. Even these rates raise very serious questions, especially since more than a third of all American families have incomes below $10,000. In my judgment, rates this high pose a danger of seriously undermining incentives that is too great to be acceptable.

By raising the breakeven income still higher, the required increments in rates can be mitigated further. With one per cent of national income redistributed to families with incomes below the average family income of $15,000, the required increase in marginal tax rates is five percentage points. Thus, rates would go from 65 to 70 per cent for low-income families and from about 35 to 40 per cent for most other families with incomes below the average. This increase would weaken somewhat further the incentives for the 55 per cent of the population with incomes below the average, but perhaps the greater equality is worth this cost. In judging whether this is so, however, it should be pointed out that only part of this redistribution goes to low-income families. In fact, with one per cent of national income redistributed in this way, somewhat less than one half of one percent would go to the lowest quintile. The result would be an increase of only about six per cent in the net income of these families, hardly a dramatic improvement in their living standards.

It turns out to be a difficult task, then, to redistribute substantially more to low-income families. Either tax rates for these families must be increased to nearly 100 per cent, or else transfers must be extended far up into the middle-income range with a still significant increment in marginal rates for all recipients. If we wish to redistribute one per cent more of national income to low-income families, it will probably be necessary to redistribute a total of two per cent, with half of that going to the nonpoor, and marginal tax rates would then increase by 10 percentage points for all these families.

So far we have been examining the impact of redistribution on the marginal tax rates of the recipients, and we have seen that the higher the breakeven income at which transfers cease, the lower the required increments in rates. The opposite is true for the taxpayers: When the breakeven income is raised, the required increment in marginal tax rates is increased. In part, this reflects the fact that a higher breakeven income implies a smaller number of families with incomes above that level to finance the transfers. More importantly, a higher breakeven income reduces the taxable income of all those above, thus requiring a higher rate to raise the necessary revenue. In other words, if the breakeven income is raised from $7000 to $10,000, families with incomes above $10,000 would have their taxable incomes fall by $3000, since only income in excess of $10,000 is taxable. This, by the way, is necessary if we are to avoid the "notch" problem.

To redistribute an additional one per cent of national income to those below $7000 would require increases of two percentage points in the marginal rates of those above $7000 to raise the necessary revenue. With a breakeven income of $10,000, the required increase is about three percentage points. These increases are not unduly great, and it is only when we look at the increases for those below the breakeven income that the entire package appears unattractive. When the breakeven income is $15,000, marginal tax rates would have to rise by five percentage points for those making more than $15,000 to raise one per cent of national income in tax revenue. In other words, redistributing one per cent of national income from those above the average to those below requires the marginal tax rates of all families, both taxpayers and recipients, to rise by five percentage points. If we wish to redistribute one per cent to low-income families, a total of two per cent of national income must be redistributed, and marginal rates must rise by 10 percentage points for recipients and taxpayers both. This would imply marginal tax rates in excess of 50 per cent for most American families.

The fundamental issue is whether greater equality is worth the cost in reduced incentives produced by these substantial increases in marginal tax rates. I do not pretend to know how responsive Americans would be to the diminution in incentives implied by a 10 percentage point increase in marginal rates, but there is clearly cause for some concern. It should be mentioned that the additional damage done by each successive increment in marginal tax rates tends to be greater than the last. A familiar proposition in economics is that the harm due to weakened incentive tends to increase with the square of the effective marginal tax rate. Thus, doubling the tax rate will at least quadruple the cost. To see this intuitively, consider a marginal tax rate of 50 per cent. This will weaken incentives somewhat compared to a zero tax rate, but it is conceivable that the effects will be moderate. (After all, some high-income and low-income families are still working, despite rates that are already this high.) If, however, the rate is increased to 100 per cent there is no doubt that incentives would virtually be destroyed. Increasing the rate from zero to 50 per cent may therefore have only a moderate effect, but increasing it by another 50 percentage points will surely have catastrophic results. This suggests that there is some critical point beyond which pushing rates still higher would be extremely harmful. Unfortunately, no one knows exactly where this point is, but before rates for most American families are pushed above 50 per cent some serious attention should be given to the question.

HOW GREATER EQUALITY CAN INCREASE INEQUALITY

Most redistributive programs involve transferring resources from families with high money incomes to families with lower money incomes. It is often taken for granted that the result is a more equal distribution of income. Of course, money incomes become more equally distributed, but it is not obvious that the distribution of real income becomes more equal. For a variety of reasons, differences in money incomes among families do not necessarily imply a difference in real incomes. This poses a very difficult problem for the evaluation of policies that tend to equalize money incomes. A few examples will indicate the nature of the problem.

If we consider a group of people with equal abilities to earn income, their actual earnings may nonetheless differ quite widely as a result of differences in their preferences. Some people, for instance, may choose to become teachers even though they could have received a higher money income by working for a private business. In such a case, the difference in money income between teachers and business employees is called an "equalizing income differential." This means that a difference in money incomes is necessary to make the net attractiveness of the jobs equal—that is, to make real incomes equal. Many differences in money income are equalizing income differentials that simply reflect differences in the attractiveness of different jobs. When this is the case, equalization of money incomes implies disequalization of real incomes. If teachers and business employees have the same money income, the teachers would have higher real incomes: equal money incomes plus a job they consider more attractive.

Another way preferences can lead to different money incomes concerns the amount of leisure time (meaning all time not spent working for money wages) that families have. Of two people who can work at the same wage rate, one may choose to work shorter hours than the other because he values leisure more highly (or, equivalently, dislikes work more). There would be a difference in money incomes, but most of us would agree that their real incomes are the same. In short, leisure time is a valuable consumption item, and should be considered a part of a person's real income. In addition to different hours of work in different jobs, two significant sources of variation in leisure time deserve explicit mention, since they are easily overlooked: the retirement decision and the decision of several members of a family to work. Retirement is an explicit decision to sacrifice money income in return for more leisure, just as is the decision of a wife to work in the home rather than for money wages in the market. Both phenomena lead to differences in money incomes in some situations where real incomes are not different.

The amount of leisure time consumed by families varies widely. Some indication of the relative magnitudes can be obtained by noting that the average number of earners per family in the lowest quintile is 0.85, and rises steadily with income until the average is 2.26 earners per family in the highest quintile. Unfortunately, these figures do not distinguish between earners who work different hours: Anyone who earns at least $1 per year is considered an earner. Thus, the figures should be interpreted with some care, but they do suggest that families with low money incomes consume larger amounts of leisure time. This should come as no surprise, since just under 50 per cent of families in the lowest quintile have family heads either under 24 years of age or over 65, age groups with a high incidence of school attendance and retirement. In the highest quintile less than eight per cent of family heads are in these age groups.

Another major source of differences in money incomes is the use of a one-year accounting period in the measurement of income. Two people may have unequal incomes in a given year, but their lifetime incomes can be identical. A person who goes to work after leaving high school will normally have a higher income at age 20 than his friend who attends college, but the reverse will probably be true 20 years later. Nevertheless, both may have the same lifetime incomes, especially when the cost of the college education is considered as a cost of the graduate's future income.

In general, incomes tend to rise with age up to about age 55, and then decline. The median income in 1972 of families headed by a person in the 14-to-24 age class was $7447, while for the the 45-to-54 age class the median was nearly double, $14,056. Above age 65 the median was $5968. Comparing people of different ages can give a misleading impression of inequality. Note that a redistribution plan based on money income would, in part, transfer income from those of middle age to those who are younger. Yet certainly the average young family today will have a higher, not lower lifetime income than the average middle-aged family. Not only will age and experience work to increase the young family's income in the future, but so too will economic growth. In all likelihood, by the time a young family today reaches middle age, the median income of middle-aged families will be at least $20,000.

While still other examples could be given, I think these suffice to make the point that differences in annual money incomes are not an accurate guide to differences in real economic position. In some cases, inequality

in money income is consistent with equality in real income, and in other cases equality in money income is consistent with inequality in real income. Recognition of this has important implications for the ethical desirability of plans to produce greater equality in money incomes: Equalizing money incomes will, in many instances, produce greater inequality in real incomes. I take it for granted that any real world redistribution will be based largely on annual money incomes since almost all discussions of inequality proceed in these terms. At any rate, I would not wish to have government use its discretionary power to tax me based on what bureaucrats think my "real" income is. Although it may be wise to limit the taxing power of government by restricting it to easily measurable tax bases like money income, it must be admitted that this implies government redistribution will be a clumsy device for achieving equality in any meaningful sense.

Recognizing these factors, it may still be argued that they are not overwhelmingly significant. If we transfer money from a family with an income of $50,000 to a family with an income of $5,000, could we really believe that this would produce greater inequality in real incomes? Of course not. When considering the extremes of the income distribution, the factors discussed in this section are probably overwhelmed by the great differences in money incomes.

This does not mean, however, that the problem is unimportant. As I emphasized in the previous section, it is simply not feasible to concentrate more resources solely on low-income families, because of the implications for the marginal tax rates of recipients. Instead, additional redistribution in the United States today is almost certain to involve considerable shifting around of money incomes in the middle-income classes. The ethical justification for this redistribution is questionable, and with about 70 per cent of all families having incomes between half and double the average income, the problem is anything but unimportant.

"DEMOGRANT" PLANS

The quantitative significance of the points I have been raising can be more fully appreciated by evaluating two recent proposals for redistribution. First, consider the proposal for a cash transfer program, sometimes called a "universal demogrant." This type of program has received considerable attention since Senator McGovern advocated the adoption of a variant in the 1972 Presidential campaign.

Basically, the demogrant approach involves the payment of an equal transfer to all families of a given size. Thus, every family of four might receive $4000 regardless of the family's own income or assets. Since there is no implicit marginal tax rate in the benefit schedule—the transfer doesn't fall at higher income levels—it might appear that the tax rate problem is avoided by this approach. Actually, that is not so. Such a program requires high tax rates to finance it, and when the transfer and taxes are considered together, it is obvious that the net transfer does fall at higher income levels.

Benjamin Okner has recently considered in detail the distributional implications of several demogrant plans.[3] Table IV describes two of the plans be examined. Total outlays on these plans are quite large, as both involve (based on 1970 data) expenditures of over $200 billion. However, the total outlays do not measure the actual redistribution since families will be paying added taxes as well as receiving transfers, and it is the net effect that counts. In fact, the net redistribution is less than a fourth of the gross outlays.

TABLE IV.—REDISTRIBUTION UNDER 2 DEMOGRANT PLANS (1970 DATA)[1]

	Plan B	Plan D
Amount of demogrant:		
Single person	$1,500	$1,250
Married couple, no children	3,000	1,250
Married couple, 2 children	3,600	4,000
Total outlays (billions)	215.4	200.7
Federal income tax rate (after comprehensive reform, percent)	42.2	40.2
Net redistribution (billions)	47.0	45.3

[1] Source: U.S. Congress, Joint Economic Committee, Subcommittee on Fiscal Policy, "Studies in Public Welfare," Paper No. 9, 93d Cong., 1st sess. (November 1973). A study of "The Role of Demogrants as an Income Maintenance Alternative," by Benjamin A. Okner, table 1.

Okner examined the financing of these plans by assuming that the federal income tax would provide the revenue. However, given the current definition of taxable income—which makes taxable income less than total income because of deductions and exemptions—marginal tax rates exceeding 70 per cent would have been required to raise the necessary revenue. To avoid this, Okner assumed that a broadened tax base was used—in effect, disallowing virtually all deductions, exemptions, and exclusions to increase taxable income by 70 per cent. On this comprehensive tax base, he found that a flat rate tax of 42.2 per cent was required to finance Plan B, and a tax of 40.2 per cent for Plan D. This would be the marginal tax rate of the federal income tax that would apply to all families, rich and poor alike, since there would be almost no income exempt from taxation.

The effective marginal tax rates would be substantially higher. Actually, taxes other than the federal income tax accounted for 25 per cent of national income in 1970. Taking this figure as a rough estimate of the marginal rate due to other taxes, the effective marginal tax rates for these programs would be 65–67 per cent. Even this is likely to understate the rates for many families, since some low-income families would be confronted with additional tax rates in remaining transfer programs. Moreover, if a progressive rate structure were used in the federal income tax, or if other taxes were progressive on balance, marginal tax rates on upper-income families would be higher. It is likely, then, that effective marginal tax rates for most families would exceed 70 per cent.

The increases in marginal tax rates produced by these plans are not so clear, however, because of the significant tax reform that Okner assumed accompanied the demogrants. A fairly good idea of the impact can be obtained by assuming that the broadened tax base was used with a flat rate tax before the demogrants were introduced. In 1970, a flat rate tax of 12 per cent on this broader base would have produced the same revenue that the federal income tax raised that year. Thus, adopting the demogrant plans would have increased the rate from 12 per cent to 40 to 42 per cent, or by 28 to 30 percentage points. Since these plans redistribute just over five per cent of national income, marginal tax rates are increased by slightly more than five percentage points for each per cent of national income redistributed.

For these high tax rates we would receive a substantial redistribution of income: $47 billion with plan B and $45.3 billion with Plan D. However, less than a third of these sums is redistributed to the lowest quintile. According to Okner's detailed estimates, Plan B raises the share of the lowest quintile by 1.7 percentage points, while the gain is only 1.4 percentage points for Plan D. Thus, most of the redistribution takes place within the middle-income and upper-income classes. As was mentioned earlier, this is a virtual necessity for any large-scale redistribution, and it makes the ethical questions discussed quite important. For low-income families we get a gain of about one and a half per cent of national income at a cost of a 28–30 percentage point increase in marginal rates for all families.

It should be pointed out that the estimates given above, as well the ones mentioned earlier, are based on the assumption that family incomes are not reduced in response to higher tax rates. If reductions do occur, then the same tax rates would raise less revenue. In this event, raising marginal tax rates by 28–30 percentage points to finance the demogrant would actually redistribute less than the figures given in Table IV. Since some reduction in incomes is surely to be expected, the estimates given can be considered to be conservative indications of the difficulty of financing such programs.

A HYPOTHETICAL TRANSFER

For our second redistribution plan, consider the proposal made by Arthur Okun in *Equality and Efficiency*.

"First, consider the American families who make up the bottom 20 percent of the income distribution. Their after tax incomes in 1974 were less than $7,000, averaging about $5,000. Now consider the top five percent of families in the income pyramid; they had after-tax incomes ranging upward from about $28,000, and averaging about $45,000. A proposal is made to levy an added tax averaging $4,000 (about nine percent) on the income of the affluent families in an effort to aid the low-income families. Since the low-income group I selected has four times as many families as the affluent group, that should, in principle, finance a $1,000 grant for the average low-income family."[4]

Okun does not intend this to be a proposal for an actual program; rather, he presents it so the reader can test his attitudes toward redistribution. In particular, Okun asks the reader to consider how large the inefficiency in such a program could be and still be considered a desirable transfer.

The hypothetical income transfer is well designed to elicit a favorable response from the reader. By emphasizing a transfer from the very top to the very bottom, doubts about whether real incomes are made more equal are not very troublesome. Instead, the real problem with this income transfer is the marginal tax rates it would require. But Okun did not raise this issue at all.

For the low-income families, marginal tax rates would be pushed up to about 100 percent. (Incidentally, the figures given by Okun are for money incomes. When in-kind transfers are included, the average income of this group would be well above $5,000—probably quite close to $7,000, in fact.) The aggregate transfer to low-income families is just below one percent, and we have already explained why a transfer of that size necessitates such a high tax rate. Had Okun realized this, I doubt that he would have presented his example as a feasible policy alternative.

Also of interest is the increase in tax rates for affluent families. The average amount of income in excess of $28,000 for such families is $17,000, according to Okun's figures. An average of $4000 must be collected from this, thus requiring a supplemental marginal tax rate of 24 per cent. (Only incomes above $28,000 can be taxed; otherwise the "notch"

[3] Benjamin A. Okner, "The Role of Demogrants as an Income Maintenance Alternative," *Studies in Public Welfare*, Paper No. 9 (Joint Economic Committee, 1973).

[4] Arthur M. Okun, *Equality and Efficiency* (The Brookings Institution, 1975), p. 91.

problem occurs.) Since current marginal tax rates of this group are, at a minimum, 40–45 per cent, and range upwards to 60 per cent or so, this income transfer would produce effective marginal tax rates in the 65–80 per cent range. Most upper income taxpayers would probably be confronted with rates of 70 to 75 per cent.

What would be the impact of this dramatic increase in marginal tax rates? I would expect a significant reduction in earnings by these families, and also a conversion of income into forms that are not taxable (through the use of tax loopholes). Over the long run, probably fewer families would acquire the skills, shoulder the responsibilities, and make the effort necessary to move into this income class. The size of these effects is uncertain but the reactions do not need to be at all large to make the income transfer program counterproductive. It would not be unreasonable, for example, to expect taxable incomes to fall by 10 per cent. Yet if incomes fell by this amount, tax revenues collected from these families would not go up at all. The higher tax rates applied to a 10 per cent lower tax base would produce just the same revenue as the present system, and there would be no additional funds to transfer to low-income families. High-income families would be worse off, and no one would gain.

Thus, the implications of Okun's hypothetical transfer for both low-income and high-income families raise serious doubts about its feasibility. And the program would—assuming no reductions in income—redistribute less than one per cent of national income. The difficulty of transferring income from the very top to the bottom tends to support my earlier conclusion that any additional redistribution will involve considerable redistribution within the broad middle-income range, as well as substantially higher marginal tax rates for everyone.

HOW FAR IS ENOUGH?

Given the current system of taxes and transfers, in order to redistribute an additional one per cent of national income to low-income families a total redistribution of at least two per cent is required, and this will necessitate an increase in marginal tax rates of 10 percentage points for all families. These conclusions raise both ethical and practical questions. The ethical questions pertain to the justification for massive redistribution within middle-income classes, and the practical questions relate to the impact of substantially higher tax rates on economic incentives. On both grounds, serious doubts are raised concerning the desirability of further redistribution. Furthermore, a gain of one per cent of national income by low-income families would only raise their net incomes by about 12 per cent. It is worth pointing out that economic growth at rates experienced in the past (but not the very recent past) will raise incomes of low-income families by this much every three or four years without increases in marginal tax rates.

For those who believe the economy is going to continue churning out more and more goods and services, regardless of the incentives confronting the producers (the people), the considerations emphasized here will probably do little to dampen their enthusiasm for more government measures to redistribute income. Since current trends suggest government activity in this area will continue to grow, I can only hope that incentives are, in fact, not appreciably dulled by substantially higher marginal tax rates. But, like most economists, I have developed a healthy respect for the responsiveness of people to economic incentives; and with effective marginal tax rates nearing 50 per cent for most American families, I think there are grounds for some concern.

For years, countless reformers have been urging the adoption of measures to produce a more equal distribution of income. The call is always for more equality than we now have, but seldom is the issue of exactly how much more equality is desirable faced squarely. Since we have gone quite far in equalizing incomes in recent years, now is an appropriate time to consider this fundamental question. It may be that we have gone far enough.

NURSE PRACTITIONERS

Mr. CLARK. Mr. President, I wish to bring to the attention of the Senate a promising new aspect of this country's health care delivery system—the utilization of nurse practitioners and other physician extenders.

These health practitioners are trained in the provision of primary care—treating minor illnesses and accidents and promoting health maintenance. They have been especially valuable in rural areas of our country, serving in clinics in communities that formerly had little or no access to health services.

Congress is beginning to recognize the usefulness of nurse practitioners, physician assistants and the like. We are presently helping to fund training programs. We are also placing some extenders in communities through the National Health Service Corps. The recently passed health manpower bill authorizes loans to establish satellite clinics using extenders and grants traineeships to nurses from underserved areas.

The next logical step is to facilitate the greater utilization of nurse practitioners through more flexible medicare reimbursement policies. I plan to work with the Senate Finance Committee in the next few months so that we can act on this matter as soon as possible in the 95th Congress.

Next month, the Senate Agriculture Committee's Rural Development Subcommittee will be conducting hearings in Iowa on rural health care. We will be concentrating on the use of satellite clinics and physician extenders. Through these hearings—and others that Senator LEAHY and I intend to hold in other parts of the country—we will expand our knowledge of the health problems and needs of rural Americans.

Commitment, a publication of the Health Resources Administration of the Department of Health, Education, and Welfare, recently featured an excellent example of nurse practitioner services in the State of Washington. The article concludes:

> Knowing that a competent well-trained nurse is there has lessened the fear of accident or illness for many of these small-town people. The increasing number of return visits is one measure that persons are content with the care they receive.

Because this article presents a detailed picture of how nurse practitioners provide valuable health services to medically underserved communities, 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:

NURSE PRACTITIONERS EARN COMMUNITY SUPPORT

(By Dee W. Jones)

Mountains and water hamper health care in the Pacific Northwest. Even towns that appear on the map as close neighbors may be, in reality, a mountain range apart. Puget Sound slashes deep into Washington, separating the thumb of the Olympic Peninsula from the main fist of the State. The Sound area is dotted with islands and the islanders depend on ferry transportation to the mainland hospitals and clinics.

On-the-scene health care is essential for economy as well as safety. Travel adds time and expense to the doctor's bill.

More than 100 small Washington communities are doctorless. Some never have had a physician's services; others have lost their solo practitioner through retirement or a move to "more rewarding" location.

Most of these towns have fluctuating populations. Summer brings vacationers. Loggers and agricultural workers come and go with the seasons. Each group has its own needs for health and accident care.

Since 1972, several Washington communities have found the services of a nurse practitioner a welcome solution.

The Washington/Alaska Regional Medical Program, a Federally funded activity, has been responsible for preparing both nurses and townspeople for this new service and for helping residents recognize that nurse clinics could survive only with community patronage and support. Now, four years after the first nurse practitioner clinic was opened in Washington, this type of facility has become an accepted and permanent feature of the State's rural health care.

Perhaps the most dramatic "success story" began in 1972 in Darrington, 80 miles north of Seattle. This logging community has a population of 4,200 living 30 miles by mountain road from Arlington, the nearest town with a hospital. Darrington's only physician had retired long ago. A small clinic built with a Sears Foundation grant had been occupied from time to time, but most often had remained unused. The town's search committee and clinic board had become discouraged with their failure to attract a physician, and they welcomed W/ARMP's staff consultation on alternatives. Hiring a Medex (physician's assistant) was not possible because no physician in the area was willing to comply with the licensing regulations then in effect. The community had a skilled ambulance crew, but citizens felt that transportation alone was not enough.

W/ARMP staff suggested trying someone from the newly emerging discipline, a nurse practitioner who could take health histories, assess the health-illness status and manage acute or chronic illnesses and emergencies by way of a phone consultation with a physician as needed. A doctor in the nearest major town agreed to act as a consultant for a nurse clinic. At that time this was a new concept in the physician-nurse profession relationship.

As discussions progressed, townspeople decided that Darrington needed not one nurse practitioner, but two. The clinic board, representing the community, accepted responsibility for paying salaries for the two nurses and a receptionist, fees for the back-up physician and clinic operating expenses. W/ARMP agreed to recruit and train the nurses, pay their first three months salary, and provide clinic start-up funds of $1,000.

Two registered nurses, both with public health experience, were found and assigned to nine weeks of individualized training in Seattle hospitals and clinics. There was heavy emphasis on emergency care, patient assessment, family planning, and maternal and child care. The two spent some time with their new physician consultant before going up the mountain to open the area's first rural nurse practitioner clinic.

Community acceptance was enthusiastic. "At first, the local residents called up at all hours," recalled Lynne Vigessa, one of the first nurses. "It was almost as though they were trying to make sure we were really there." The Arlington hospital staff praised the young women's skill in giving on-the-spot treatment for logging accident victims. "It's like having your own right hand up there," one of the doctors said.

But financial problems soon threatened the clinic's future. Start-up funds ran out. The patient load included many elderly, and because of technicalities, the nurses were not reimbursed for Medicare patients. Welfare payments did not meet actual costs.

The clinic gained some income by contracting to provide school health services. An end-of-the-first-year survey showed that more than half of Darrington's health care was being provided by the nurse practitioners, but the clinic still was not financially solvent.

When one nurse returned to graduate school in 1973, she was replaced by Kasha Barnow, who initially received 60 percent of her salary from the National Health Service Corps. At that same time the Darrington clinic, along with two others that had been established with W/ARMP help, were committed to a pilot program under which the nurses would be reimbursed for services to Medicare patients. Subsequently, arrangements were made for a more realistic contract with private third-party payers, and the financial picture was generally improved, but the clinic does show a deficit some months.

By spring of 1976 the clinic was able to provide Kasha's salary entirely, even though the school nursing contract had been relinquished. Patient fees and third-party reimbursements plus occasional industrial donations have been supporting the entire operation. However, maintaining financial solvency is a continuous struggle.

Darrington patient visits are as high as 45 per day in winter and 30 in summer—the greater clinic load is partially due to the area's loss of two physicians recently. A repeat study showed patient satisfaction remains high.

Both nurses report that they enjoy the small town life and particularly relish the opportunities for mountain climbing. Kasha said she finds "plusses" in the opportunity to practice varying levels of nursing and social work, and in the sense of closeness with her patients including the good chance for follow-up.

The local pharmacy honors the nurses' prescriptions. Their physician consultant visits the clinic for five hours twice a month, with the time being used as the need dictates. Sometimes he joins the nurses in seeing patients. At other times he reviews charts. Occasionally the nurses close the clinic and spend an afternoon with the physician improving their skills in minor surgery, making orthopedic casts or reading X-ray films.

The Darrington clinic normally is open 40 hours a week, but because the nurses live in the community, there is nearly fulltime coverage. If warranted, housecalls are made to the very ill and the aged.

About a year after the Darrington clinic opened, Clallam Bay, a coastal logging and fishing village 150 miles northwest of Seattle on the edge of the Olympic Peninsula Rain Forest, also appealed to W/ARMP for assistance. At the local Lions Club and a citizens' gathering, W/ARMP staff showed a newly made film[1] of the Darrington nurses at work. The scenes of a nurse in the ambulance attending to an injured logger had special impact in Clallam Bay. The people knew that was the kind of person they needed.

Again W/ARMP recruited and trained a nurse. Financial support was arranged and the clinic was contracted as a satellite of the community hospital at Forks, 32 miles away. The tax-supported hospital district agreed to pay the nurse's salary, rent the clinic space and handle collections.

Jo Anne Willard, who had gained experience at Seattle's Group Health Clinic, arrived at Clallam Bay in October 1973. The only health care provided along 60 miles of coast, she serves a population of 2,330, some of whom are Indians entitled to care at an Indian Health Service Clinic, but the clinic has had a physician only sporadically.

Beginning with a daily patient load of only three, Jo Anne now sees an average of 12 and acknowledges she could not survive on fees-for-service alone. The community residents consider her a worthwhile investment. Having her there saves them a 60-mile round trip to a physician for treatment of minor ills, allergy injections, Pap smears, family planning counseling and minor injuries. Clinic records show suturing of loggers is a major entry.

Another W/ARMP-trained nurse practitioner augments physician services at the Forks hospital.

Jo Anne feels the unimposing frame building where she works, with its tiny waiting room and closet-sized laboratory, discourages the more conservative patients in the area, and she looks for an increased patient load when a promised new clinic is constructed. Because of its hospital affiliation, the Clallam Bay clinic is reimbursed by the "blues" (health benefit programs) and the Indian Health Service. However, it is not certified for Medicare reimbursement.

Vashon Island, in South Puget Sound, a 30-minute ferry trip, has a year-around population of 7,000, swelled by 3,000 vacation cottagers in summer. In 1972, islanders were sharing the services of one physician, and were entirely without coverage when he was seeing patients in mainland hospitals. The community organized a health center which was open in July with two W/ARMP-supported nurse practitioners and some 20 volunteer receptionists who took turns answering the telephone.

When W/ARMP support ended three months later, patient fees were covering only 10 percent of the operating costs, so the community rallied to make up the difference. Health center "memberships" (carrying no special privileges) were sold for $5 each. Ultimately an experienced salaried office worker replaced the corps of receptionists who then began directing their efforts toward fund raising. Now they run a salvage shop, "Granny's Attic," that raises an average of $650 a month for the clinic.

After four years, the Vashon clinic has both fulltime and halftime nurse practitioners, a salaried physician three days a week, and residents who come from a Seattle hospital each afternoon at no expense to the clinic. Nurses' contracts require them to live on the island to provide 24-hour coverage. The payroll of 14 full and part-time employees includes bookkeeper, receptionists, administrator and medical assistants.

All of the nurse clinics report that they writeoff a fairly high percentage of no-pay patients—Vashon's is 15 percent—and lose money on reimbursement of welfare cases.

In early 1975, Nancy White returned to her home community, 1,500-population Orting, at the foot of Mount Rainier. She was invited back by the town's Health Council whose members had long despaired of utilizing the little white stucco structure they called the clinic.

Fruit growers, merchants and dairymen contributed to an auction that raised $1,000 for clinic equipment. The school district secured CETA (Comprehensive Employment and Training Act of 1973) funding to retain Nancy halftime as its very first school nurse. A dentist and an optometrist each agreed to rent clinic space for use one day a week.

Nancy had inherited the small farm on which she had grown up, so she became what certainly must be one of the country's few self-employed nurse-farmers.

After four summers of nursing at an Alaska fish camp 150 miles from a physician, she was accustomed to professional isolation, but this would be her first venture as an independent. The first day she advised her volunteer receptionist to bring along some knitting to avoid boredom. The patient stream was so great that the receptionist soon was put on salary—and there never has been any office time for knitting.

Nancy's physician back-up reports he is delighted with the arrangement. "I wish we had one like her in every little town in the valley," he said. "It certainly has cut down the amount of time I spend on these country roads." And, as an aside, the Orting Fire Department has welcomed Nancy as a member.

Gretchen Schodde, one of the first nurses placed in Darrington, recalls her year there as "the most challenging and rewarding of my life." She now teaches in the University of Washington's family nurse practitioner program and emphasizes the necessity of rural clinic placements during training for persons interested in this new role. Also important, she feels, is personal background. Someone with a country rearing probably will better adapt to the rural assignment. Studies have shown that to be self-sufficient, a nurse clinic should serve a minimum of 1,200 persons. Even then, as has been experienced in these communities, some source of income in addition to patient fees is essential at the outset. The University of Washington School of Nursing also recommends placing nurse practitioners in pairs—for greater community coverage, mutual support, and for utilizing opportunities for continuing education. Each of the nurse practitioners must arrange for some sort of consultative relationship with a physician.

No matter how modest the clinic facility, it must afford individual privacy since nearly all patients may be expected to know each other. A centrifuge, microscope, some mechanism for cultures and dip-sticks are essential. X-ray is desirable for fracture diagnosis, and is a potential source of income.

Gretchen warns nurse practitioners who seek rural assignments that they face the cultural and professional hazards of isolation and that they constantly must be aware of their limitations. A well prepared nurse practitioner can handle most common health problems, she feels. But the nurse should beware of thinking that, on a daily routine basis, "I can handle anything."

Knowing that a competent, well trained nurse is there has lessened the fear of accident or illness for many of these small-town people. The increasing number of return visits is one measure that persons are content with the care they receive. Other com-

[1] "The Nurse Practitioner," a 20-minute color and sound film produced by Washington/Alaska Regional Medical Program, is available for loan from the Washington State Nurses Association, 117 Second Avenue, Seattle, Washington 98101.

munities have heard about these clinics and are seeking nurse practitioners. Fortunately, there appears to be a sufficient supply among the confident and well prepared nurses who are eager for assignments that use all their skills.

SUNSET BILL

Mr. JAVITS. Mr. President, the Government Operations Committee has developed in committee an important reform proposal for improving the congressional review of Federal spending. This bill—S. 2925—the Government Economy and Spending Reform Act of 1976 sponsored by Senators WILLIAM V. ROTH, JR., and EDMUND MUSKIE—is now popularly called sunset reform. I am pleased that the Senate has the opportunity to debate the merits of this approach before we adjourn the second session of the 94th Congress.

We must assure that Congress exerts its role in developing and carrying out the legislative priorities on our national agenda, for this function we need procedures for review, all the good intentions of the Congress otherwise come to naught.

The sunset legislation as it is advocated by its authors has been developed to accent the role of Congress in making Government programs more effective.

Today I want particularly to commend Senator ROTH for the tireless role he has played in developing this interesting sunset proposal. With the Presidential campaign in process it is easy to overlook the instances of bipartisan cooperation which make for good government. This sunset proposal is a good example of Republican and Democratic teamwork which has yielded what could be a solid proposal for fiscal reform.

Senator ROTH and Senator MUSKIE collaborated last year, months before any bill was introduced, to reach agreement on the outlines for a comprehensive spending reform proposal. Their staffs worked in concert for weeks to refine the procedures for periodic termination and zero-base review and to draft a bill which met with their approval. On February 3, 1976, Senators ROTH and MUSKIE introduced S. 2925 which has become the basis for the sunset reform bill pending before the Senate today. The original bill has been refined and improved considerably during its review in the Government Operations Committee.

This proposal may have to be considered again during the next session of Congress because the House may not complete any action on this bill. I am sure there will be further refinement of the basic bill developed this year. I ask unanimous consent that there be printed in the RECORD several articles which show the development of this bill and point out the bipartisan cooperation between Senators ROTH and MUSKIE.

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

[From the Washington Post, July 21, 1976]

PROGRAMS THAT SELF-DESTRUCT

(By Neal R. Peirce)

The "sunset" law idea—to force government agencies and programs to justify their own existence or face extinction—is advancing rapidly in Congress and spreading like a prairie grassfire among the states.

Sunset measures were introduced this spring in California, Florida, Illinois and Louisiana—even before Colorado, in April, could complete action on its pioneering bill to put 40 state regulatory agencies on a seven-year life cycle. Maryland has set up a 15-member commission to study the feasibility of a sunset law.

The Colorado chapter of Common Cause, which originated the sunset idea, reports inquiries from 30 states. "I wouldn't be surprised if two dozen legislatures were debating sunset bills by next winter," says Rosalie Schiff, executive director of Colorado Common Cause.

On Capitol Hill, 47 senators, of every ideological hue, are sponsoring sunset legislation requiring federal government programs, grouped by functional area, to come up for renewal every five years. Programs that couldn't pass muster would be cut back or eliminated altogether. Those that proved themselves would be given a new lease on life by Congress.

The bill cleared the Senate Intergovernmental Relations Subcommittee by a 7–0 vote May 13, and sponsors Edmund S. Muskie (D-Maine) and William V. Roth (R-Del.) hope it will reach the Senate floor this summer.

On the House side, a companion bill has more than 100 sponsors including 41 members of the freshman class lined up by chief backers James J. Blanchard (D-Mich.) and Norman Y. Mineta, (D-Calif.). House committee hearings are scheduled to begin this month.

Broad support—from Common Cause to the Chamber of Commerce of the U.S.—for the sunset legislation was forthcoming during Senate hearings. Only one interest group—the veterans—had the temerity to oppose the idea in public, out of fear that Congress might cut back their benefits.

Blanchard says he's "absolutely convinced" sunset legislation will eventually pass Congress. If he's right, the results could be revolutionary: the most effective brake on federal spending and programs in modern times—perhaps ever.

Muskie and Roth see sunset as a logical extension of the new congressional budget process, now in its second year. Whereas the budget process lets Congress establish spending priorities and overall ceilings, the sunset mechanism would force Congress to make periodic decisions on whether federal programs are really working so that duplicative or unnecessary ones can be weeded out.

Up to now, bureaucratic and political pitfalls have made it almost impossible to eliminate programs or agencies once they're on the statute books.

The sunset bill tries to avoid those pitfalls in three ways. First, a triggering mechanism requires that Congress must act every five years to keep a program alive. The burden of proof is shifted to a program's backers, to show that it deserves continued life. According to Alvin From, staff director of the Senate Intergovernmental Relations Subcommittee, "it will be very hard for a committee to justify reauthorizing the Tea-Tasters Board or 228 individual health programs."

Second, the sunset measure requires that all related programs—in manpower or health or national security, for example—come up for review and a decision on extension in a single year. Under strict budget guidelines, Congress will have to decide which programs are the most worthwhile, which might be dropped or consolidated.

Finally, the sunset bill as it's now written requires a zero-based review of each federal program, to be prepared for Congress by executive agencies and the General Accounting Office. Zero-based review shows the consequences of cutting any program's budget 25 percent or more, eliminating it altogether, or providing the services another way.

The zero-based process alarms professional budget-makers. Roy Ash, former director of the Office of Management and Budget, says that zero-based review of an average of 250 programs a year "is like attempting to jump aboard a 747 in full flight." Others say the bill is overly ambitious, would set a "papermill" in motion and create "a staggering workload." They suggest more modest pilot or test runs.

Muskie and Roth show little patience with such arguments. If Congress proceeds at the pace predicted by many critics, Roth says, "I will be dead by the time the work is completed." Much of the resistance, sunset law backers believe, stems from normal bureaucratic change in their way of doing business.

Even federal tax incentives are the target of a sunset provision suggested by Ohio's Sen. John H. Glenn (D). However noble their original purpose, Glenn says, tax incentives often degenerate into loopholes that cause an annual loss of $101 billion in tax revenue—as much as the entire national defense budget.

Common Cause urges a kind of sunset for Congress itself—reorganizing committees into more clear-cut functional areas and forcing members to rotate committee assignments every few years to break up "unholy" alliances between committee members and special interest lobbyists.

Even an imperfect sunset system, however, could help breathe life into the oft-neglected oversight role of the legislature, prompt the executive to be more accountable, and begin the arduous process of rescuing government from its own cumbersome inefficiencies and the nadir of public esteem where it finds itself today.

[From the Economic Affairs, Apr. 24, 1976]

SUNSET BILLS: AN EYE ON BIG GOVERNMENT?

(By Judy Gardner)

Citing the public's "anti-Washington" mood, members of Congress are seeking support for bills to make federal programs regularly justify their existence or come to an end.

The proposals are generally labeled "sunset" bills because they would mandate the periodic reauthorization by Congress of all federal programs, including many now taken for granted. If the activities were not reauthorized, they would fade into the sunset.

While the proposals take a number of forms, they share the common goal of improving government performance.

PUBLIC DISSATISFACTION

The proliferation of federal programs, accompanied by duplication, inefficiencies and conflicting purposes, has resulted, says Sen. Edmund D. Muskie (D Maine), "in a bumper crop of public disenchantment with government so unresponsive that it cannot even perform the simple day-to-day tasks that need to be done."

Muskie, one of the sponsors of the bill that has received most attention in Congress so far, seeks to win support for the proposal by pointing out that the 1975 Catalog of Federal Domestic Assistance listed 1,030 programs—228 health-related, 156 in the area of income security and social service, and 83 in housing; that the Government Manual

lists 44 independent agencies and 1,240 advisory boards, committees, commissions and councils besides the 11 cabinet departments; that in 1974, 85 governmental bodies were established and only three subsequently abolished.

"There may have been a time when we could afford nearly a thousand different legislative solutions to a few dozen national problems—when we did not have to worry which programs were working and which ones were not, because we knew there was enough in the till for everyone," said Muskie in a Feb. 3 Senate speech. "Today, we no longer have those options."

PROPOSALS FOR CHANGE

Bills have been introduced in the House and Senate that would, in a variety of ways, require the regular review of federal activities and agencies, with an eye to improved efficiency.

The bill (S. 2925) that has received the most scrutiny so far was introduced Feb. 3 by Muskie, with bipartisan cosponsors that included John Glenn (D Ohio), William V. Roth, Jr. (R Del.), Barry Goldwater (R Ariz.) and Budget Committee members Henry Bellmon (R Okla.) and Sam Nunn (D Ga.). Muskie is Budget Committee chairman and Bellmon is the ranking minority member. By late April, the bill had 27 cosponsors, including Majority Leader Mike Mansfield (D Mont.) and Minority Leader Hugh Scott (R Pa.).

Muskie also is chairman of the Government Operations Subcommittee on Intergovernmental Relations, which held eight days of hearings in March and April on the bill.

Entitled the Government Economy and Spending Reform Act, it would build upon the budget procedures passed by Congress in 1974.

". . . I have come to believe that no matter how successful the new budget process is, the statement of national priorities which is the federal budget will not be complete until Congress improves control over the services which the budget is intended to buy," Muskie said at the opening hearing March 17. While previous efforts at increasing government efficiency focused on reorganization by the executive branch, Muskie continued, it was time for Congress to face the issue since it bore responsibility for the legislative maze of programs.

Muskie called the bill a "first draft" to stimulate discussion. As introduced, it contained these major elements:

All federal programs and activities would have to be reauthorized at least every four years or be terminated automatically. Exceptions would be made for payment of interest on the public debt and for programs in which individuals made payments to the federal government with the expectation of receiving later benefits, such as railroad and Civil Service retirement, Social Security and Medicare.

Over a four-year period beginning Sept. 30, 1979, all programs and activities would be scheduled for reauthorization, grouped by budget function. Activities within the same function would terminate simultaneously so that Congress could look comprehensively at a functional area, such as national defense or agriculture.

As part of the review process, House and Senate committees would conduct a "zero-base review" of the programs and activities in their jurisdiction every fourth year before reporting a reauthorization. Under this concept, the committees would assess the impact of no funding for a program, and then, working up from zero, evaluate the impact of incremental increases. The committees also would review the duplication of programs.

Additionally, the President would submit with his budget request a zero-base review and evaluation of the programs and activities scheduled for termination in the coming fiscal year, and specific objectives for all programs.

To help the authorizing committees initially, the General Accounting Office (GAO), the investigative arm of Congress, would report to Congress by April 1, 1977, all existing permanent authorizations; assist in the zero-base reviews; and report by July 1, 1977, on duplicative and inactive programs. Congressional committees would propose remedies by May 15, 1978.

In addition, Glenn has proposed an amendment that would extend the zero-base evaluation concept to tax expenditures—revenues lost to the government because of tax policy, such as deductions for interest on home mortgages.

NEED FOR ACTION

The supporters of S. 2927 have focused on its zero base budgeting provisions, which they describe as a logical second step to the 1974 budget act. That law gave Congress the potential for focusing on overall federal spending, they say; the provisions of S. 2927 would permit it to focus on the individual aspects of federal spending.

Roth argues that the bill "would end the unspoken rule that money spent on a program this year must be continued or increased in next year's budget," an axiom that has led the federal government "into the fool's trap of throwing good money after bad for a wasted enterprise." The new assumption instead would be that no new budget authority would be necessary until a program was proven worthwhile and cost effective, he said Feb. 3.

Roth and others also maintain that the quadrennial evaluations would help Congress to get a handle on "uncontrollable growth" in spending, since higher costs would be assessed against program goals more often.

Supporters also say the evaluations would help to consolidate overlapping programs, eliminate unnecessary ones and generally provide for more efficiency and a better use of taxpayers' money. With Congress initiating the changes, they theoretically would have more chance of passage than executive branch proposals for consolidation which tend to fare poorly in Congress.

Rep. Norman Y. Mineta (D. Calif.), saw potential improvements in federal-local relationships as well from the bill. There could be a "positive impact" on local government receiving federal aid as bureaucratic red tape was eliminated and grant programs were overhauled to revise overlapping or contradictory objectives, he told the subcommittee March 18.

Muskie observes that the proposal does not signal a retreat from the traditional Democratic commitment to a federal role in solving national problems. On the contrary, he says, many of the goals of new federal programs he has worked for in the past "are being thwarted by an unwieldy and unresponsive federal establishment." The changes represented by zero-base budgeting and "sunset" provisions would help to achieve some of those original goals. And unless changes are made, he continues, the federal government may lack both the fiscal resources and the public's trust to pursue new legislative solutions to national problems.

PRACTICAL PROBLEMS

The witnesses before the Intergovernmental Relations Subcommittee, reprsenting the executive branch, local government, citizens' groups and private business, all applauded the goals of S 2925.

They also identified a host of problems with the bill as introduced.

James T. Lynn, director of the Office of Management and Budget (OMB), said April 6 that the overriding problem with the bill was its "mechanical and inflexible" approach. Some activities, he explained, needed more frequent reviews than every four years, some less. Some evaluations could take years to do properly, some a few months. The approach embodied in the bill, he and other testified, could mean a mass of paperwork that in the end would accomplish very little.

Another problem, said Alice M. Rivlin, director of the Congressional Budget Office (CBO), was the bill's sweeping mandate for zero-base budgeting. For many federal activities, she said, there was a general consensus that they were a proper function for the federal government such as national defense and the conducting of a census. For such activities, she said, the relevant question was not whether such a program should exist. but rather whether the activity was being done in the most effective way.

A related problem that both she and Commerce Secretary Elliot L. Richardson highlighted was the difficulty of measuring the effect of federal programs. Objectives could be general, numerous or difficult to quantify, they said. Additionally, it was not always possible to judge the impact of ending a particular program or activity.

Richardson suggested that preparing evaluations every four years could "easily become a mere mechanical exercise" and suggested a more targeted approach, with initial attention on so-called "uncontrollable" programs which would be revised or eliminated only through legislation.

GAO Comptroller General Elmer B. Staats also was concerned about the workload required for an across-the-board zero-based budget evaluation, and about the difficulties in identifying overlapping or duplicative programs. He suggested a pilot test.

Several witnesses, including former OMB Director Roy L. Ash (1972–75) questioned the need for new legislation at all. "Don't wait for legislation," suggested Ash. He urged the Budget Committees, authorizing committees and OMB to start instead on selected zero-based analyses immediately, and hold off on legislation until some practical experience had been gained.

Staats and administration witnesses also observed that under the Intergovernmental Cooperation Act of 1968 (PL 90–577) GAO could, at the request of any committee, study specifically the duplicative or conflicting nature of grant programs, in addition to its general investigatory and oversight functions. (*Details, 1968 Almanac p. 505*)

OUTLOOK

The problems mentioned by the witnesses, as well as the potential political impact on favorite programs of congressional committees, created formidable obstacles to the drafting specific legislation, despite the appeal of the overall goals.

The Intergovernmental Relations Subcommittee completed hearing on S 2925 April 8 and the staff is working to revise the measure. Its efforts have included meetings with OMB Deputy Director Paul H. O'Neill.

"You can always work out the practical problems," said subcommittee staff director Alvin From. ". . . The difficulty really is in coming up with a distribution of the workload, so that good careful evaluations can be made, rather than just making paperwork."

A member of the minority staff who has worked with Roth on the bill, Douglas Barrett, said that the problem was to keep a "comprehensive approach" to evaluation without overwhelming the legislative process. None of the principal sponsors has any illusions about the difficulties such a bill would

face, he continued, but added there was "a good deal of support, interest and commitment" to it.

If an acceptable approach can be worked out, the subcommittee may hold markup sessions in mid-May.

In the House, companion legislation (HR 11734) has been introduced by Mineta and James J. Blanchard (D Mich.). It has been referred to the Rules Committee which has no plans for action.

[From the Wall Street Journal, June 25, 1976]

CLEANING HOUSE: NEW "SUNSET LAWS" SEEK TO CURB GROWTH OF BIG GOVERNMENT

(By Robert L. Simison)

DENVER.—Raul N. Rodriguez, executive director of Colorado's Department of Regulatory Agencies, doesn't sound like a bureaucrat. He says things like, "Regulation is bad." And, "I'd like to do away with this department."

He doesn't act like one either. Besides urging the dissolution of certain of his department's agencies, he has helped pass a law that could do away with them all: Colorado's new "Sunset Law." The experimental measure would terminate in six years the state's regulatory agencies, representing a third of all its executive units, unless they justify their existence. Some 39 agencies regulating businesses ranging from mobile home dealers to utilities are affected. If an agency fails to convince the legislature it should be reestablished, the agency's sun will set.

In a year when opposing government growth is popular, the sunset approach is catching on. "People are fed up with big government and want to do something responsible about it," says a spokesman for Common Cause, the self-styled citizens' lobby.

Thus, it's no surprise that similar proposals are dawning elsewhere. In Washington, one federal proposal already has 55 Senate and 112 House backers. Following Colorado's lead, the Florida legislature has passed a sunset measure that will apply to 108 laws that regulate 77 industries and professions, and the Maryland legislature has set up a panel to draft a sunset bill. Legislators in a score of other states are also studying the bill.

ELECTION-YEAR PIZZAZZ?

However, sunset laws may have more election-year pizzazz than long-term utility, both backers and critics point out. The concept actually is intended more to force legislatures to review their offspring than to wipe out a lot of agencies. And the workload of such reassessments may make sunset laws unworkable or ineffective.

The problem sunset seeks to remedy is that government programs and agencies often seem to mushroom out of control. "We tend to create things and then forget about them," acknowledges Rep. Gerald Kopel, who backed sunset in the Colorado House.

A case in point was Mr. Rodriguez's Department of Regulatory Agencies. The department's 31 occupational licensing boards and eight major regulatory agencies, such as the Public Utilities Commission, consist of fixed-term appointees who are usually nominated by the industries and occupational groups they regulate. Their rulings aren't subject to gubernatorial or legislative review. (The legislature does have the power to abolish the regulatory boards, but as a practical matter, inertia and lobbyist pressure mean that this option is rarely—if ever—exercised).

WHO CUTS MEN'S HAIR?

This system, common to most states, has come under harsh criticism here in recent years. "These agencies were protecting the industries they regulated, not acting in the public interest," charges Rosalie Schiff, executive director of Colorado's Common Cause chapter. As examples, critics here cite a recent jurisdictional dispute between the cosmetologists' and barbers' boards over who could cut men's hair. The critics have also charged that boards licensing electricians, plumbers and court reporters set ridiculously high standards. The medical examiners' board was criticized for failing to discipline doctors for malpractice.

The solution that caught on here developed out of some notepad scribblings by Craig Barnes, a young Denver lawyer, during a Common Cause meeting. Although the idea of automatic terminations wasn't new, Mr. Barnes claims credit for naming it sunset. "It's like the end of the day for these agencies, and it's inexorable," he says.

The resulting Colorado law, which passed with Common Cause backing, sets 13 of the 39 agencies for automatic termination every other year. But before an agency is dismantled, the law mandates public hearings at which "the agency shall have the burden of demonstrating a public need for its continued existence . . ." Agencies that pass the test can then be restructured or renewed for up to six years.

TRYING TO SHAPE UP

There's evidence the law is already having the desired effect. With the first batch of terminations looming next year, "these agencies are all trying to shape up," Mr. Rodriguez says.

An agency that has reason to try especially hard is the one that licenses court reporters. Legislative hearings aired complaints that, among other things, the Shorthand Reporters Board artificially restricted entry into the profession by making its qualifying test almost impossible to pass. (In two examinations last year, only three of 84 persons were certified.) In the face of intensive lobbying, a bill to abolish the board cleared the house. The bill died in the Colorado Senate after the sunset law slated the agency for termination next year.

Since that close call, the shorthand reporters board has been conducting a "massive housecleaning," according to John Bovarie, board secretary. In a revised examination given this year, 22 of 43 applicants passed. "It's a good thing this came up," Mr. Bovarie concedes. "Now we can correct some things that needed correcting."

The legislature's move to abolish that board was no idle threat. After overwhelmingly clearing the sunset bill, the legislature repealed statutes requiring licensing of midwives and ore buyers, eliminated boards that licensed landscape architects and tested doctors on basic sciences and buried the cemetery board (its duties were transferred to the insurance division). It also turned down licensing bids by such groups as dog groomers and massage-parlor operators.

Similar measures aimed at tightening legislative control over agencies have drawn increasing attention elsewhere in recent years. The most important of these is zero-based budgeting, a system initiated under former Gov. Jimmy Carter in Georgia and since adopted by a handful of other states. Under this system, which Mr. Carter proposes to apply to the federal government each department or activity of state government must justify every dollar it seeks to spend every year rather than simply justify proposed spending increases. The various Sunset laws seek to use a different mechanism to impose the same result top-to-bottom reassessment on a regular basis.

In Washington, the sunset bill getting the most attention combines both ideas. Initiated by Sens. Edmund S. Muskie and William V. Roth, the bill would put all government programs and activities on a five-year schedule of reauthorizations. In each year's "zero-based" review, Congress would evaluate the effects of various spending levels, including zero, on the goals of each agency and program.

However, even backers are wary of applying sunset to the entire federal government before it has been tested on a smaller scale. "We can't even guarantee to anybody that this will work," says Sidney Brooks, chairman of Colorado Common Cause, who calls the Colorado law a pilot project.

GOING SLOW

Both the Florida and California legislatures have backed away from measures that would have applied the sunset approach to most functions of state government. In both states, a feeling that the idea was premature contributed to the retreats, although the Florida legislature did enact a measure applying sunset to regulatory matters. The Louisiana legislature is still weighing a sunset bill; other sunset measures, were introduced too late for action in the Alaska, Minnesota and Illinois legislatures. Texas voters in 1975 defeated a proposed new state constitution containing a provision limiting to 10 years the life of most statutory agencies though the sunset feature isn't blamed for the defeat.

The chief doubt about sunset relates to the legislative review it seeks to force. Colorado's bill fails to set specific guidelines for evaluating agencies, contends John Reese, editor-in-chief of the American Bar Association's Administrative Law Review. And even if it did "It's ridiculous to pass a bill telling us to do what we could have been doing anyway," says Sen. Ruth Stockton, the only member of the Colorado Senate who voted against the bill.

Limited time in session would further hamper thorough review by legislatures, critics add. The result could be that "legislators will have to vote based on whatever lobbying pressure is applied," says James C. Perrill, a lobbyist for the Colorado Medical Society. Such pressure could make the renewal of terminated agencies simply a routine matter, critics believe. Further, reviews would make agencies "spend all their time fighting for their lives instead of doing their jobs," contends a Texas lawmaker.

Recognizing these limitations. Colorado intends to go slow with the concept. "We need to see how it works before we go further," says Gov. Richard D. Lamm. But, he adds, "we're going to have to tighten the belt of government. We can't raise more taxes, but we can abolish things."

[From the New York Times, Aug. 5, 1976]

SPENDING REVIEW BACKED IN SENATE. COMMITTEE APPROVES BILL TO RESTUDY PROGRAMS AT FIVE-YEAR INTERVALS

(By Edwin L. Dale Jr.)

WASHINGTON, Aug. 4.—The Senate Government Operations Committee approved today legislation, applying to Congress, that would end nearly all Government spending programs unless each one was specifically approved again over a five-year review cycle.

Known as the "sunset" bill, it is the legislative counterpart of the "zero-based budgeting" concept embraced for the executive branch of government by Jimmy Carter, the Democratic Presidential nominee.

If enacted, the bill would amount to a revolution in Congressional procedures almost comparable to the Budget Reform Act, which is in full operation this year for the first time. That reform requires Congress to set an overall spending ceiling each year and live with it.

Enactment of the "sunset" bill by both houses of Congress this year is regarded by Congressional staff experts as doubtful but not impossible. Hearings on companion legislation in the House have been conducted by both the Rules Committee and the new Budget Committee.

The bill approved today would exempt from the automatic termination, or "sunset," process only a few programs of the insurance type, such as Social Security, where individuals contribute to a retirement or other benefit.

Thus, even longstanding "entitlement" programs such as veterans' combat-related disability benefits would be subject to review every five years, though there is little expectation that cash payments now received by individuals will be taken away.

More likely to be modified or possibly terminated would be some of the more than 1,000 grant programs, often through state and local government, that deliver services of various kinds.

The committee report on the bill will begin as follows:

"The purpose of S. 2925, as amended, is to close the gap between Congress and the results of its legislative work—the actual performance and accomplishments of Federal programs paid for out of the Federal budget."

The bill sets up a schedule of "functional" programs—health, education, income security, veterans, agriculture, natural resources—for review and possible termination every five years. Under an amendment adopted today the reform itself would have to be reenacted by Congress after five years of experience. If it was not re-enacted, the old procedures would resume.

The bill must now be considered by the Senate Rules Committee. It must also be considered by the Finance Committee because one of its provisions requires a five-year review cycle of "tax expenditures"—that is special tax deductions, exemptions or exclusions that are aimed at achieving results in such areas as mining and health or home ownership outlays by taxpayers.

The chief sponsor of the legislation was Senator Edmund S. Muskie, Democrat of Maine who is chairman of the subcommittee of Government Operations that drafted the bill. Senator Muskie's perception of the need for "sunset" grew as a result of his other role as chairman of the new Senate Budget Committee.

The committee report on the bill says, "The committee would like to state at the outset that S. 2925 does not require the re-enactment of the entire United States code every five years. Rather it only affects those provisions of law authorizing the expenditure of funds. Accordingly, substantive provisions of law—antitrust, civil rights, occupational safety laws, etc.—are not affected by the termination provisions. . . . the focal point of the termination and review process in S. 2925 is intended to be those provisions of law which authorize or provide budget authority for the delivery of services or goods by the Federal Government."

The term "sunset" apparently arose as a verbal counterpart to "sunshine" legislation, which relates to the conduct of Government business in the open. Both terms originated in the states, not Washington. Colorado has just enacted the first state sunset law.

The committees that handle the basic legislation would conduct the reviews, with help from the Office of Management and Budget, the General Accounting Office and the new Congressional Budget Office.

The Ford Administration has been lukewarm to the legislation, though not overtly opposed. Paul H. O'Neill, deputy director of the Office of Management and Budget, told the House Budget Committee last week that he feared it could produce "mountains of paperwork" with few substantive results in cutting back ineffective programs.

However, there was also much skepticism about the radical Congressional budget reform. While it remains to be fully tested, there is now much more optimism than there was a year or two ago, both in and out of Congress, that it will work in restraining the Congressional "propensity to spend" under its old procedures of passing bills one at a time with no control over the total.

The committee report on the "sunset" bill says that the "number and complexity of Federal programs," the great increase in "uncontrollable" outlays and the "rapid growth in the number of Federal programs with permanent appropriations" have made the new system of review necessary.

[From the Wilmington (Del.) Morning News, Feb. 6, 1976]

ADDED SPENDING REFORM

Congress has been making significant progress this last year in developing an orderly way of handling the national budget.

The newly established congressional budget office enables legislators to draw on the kind of expertise that had previously been available only to the executive branch. Concurrent resolutions passed by the House and the Senate set overall budgetary targets. Careful scorekeeping enables legislators to understand the budgetary implications of each bill and to stay within the budget's bounds.

But however valid these reforms—and they do seem to be working—they still have not provided the kind of controls that responsible congressmen feel they should have over national programs and budgets. Delaware's Sen. William V. Roth Jr. and Maine's Sen. Edmund S. Muskie have introduced the Government Economy and Spending Reform Act, to streamline the national budget making process even further.

The proposed spending reform act has three crucial features:

Every federal program would receive a formal review every four years.

These reviews would be carried out by budget areas, so that all science programs, for instance, would be reviewed at the same time. This would uncover duplications as well as inactive programs

Pursuant to the review, the new budget would be drawn up, starting from base zero, with every expenditure having to be justified.

The only kinds of national programs that would not be subject to that kind of quadrennial re-evaluation would be Social Security, Veterans insurance and others where citizens pay in now for later reimbursement. For all other governmental activities, their worth would be checked out before another appropriation would be authorized.

The virtues of this proposed process are obvious. By looking at whole program areas together instead of different strands at different times during the year, co-ordination and comprehensiveness will become practical. Ineffective programs will be discovered more easily, because the review will include a study of program goals and achievements.

The 4-year review cycles will increase the number of projects that are authorized for more than one year; this would allow agencies longer planning and implementation periods with better knowledge of how much money is at their disposal.

Congress' workload would become divided more evenly, with areas such as defense, science, law enforcement and international affairs reviewed one year and then not needing too much study for the next three, while agriculture, commerce and transportation, education, community development and public assistance programs would have their review turn the next; and so on.

Under the proposed bill, no program could be continued beyond four years without going through the review process.

There are all sorts of fancy names in the public administration jargon for the Roth-Muskie reforms. Program budgeting is one such term; zero-base budgeting is another. But the nomenclature is really beside the point. What does matter is that Congress is searching for a method that will eliminate federal waste and will put the federal dollar where it can be most effective. The Roth-Muskie bill gives every indication of being a crucial step in that direction.

[From the Baltimore Sun, February 20, 1976]

ZERO BUDGETING

One of the most notable themes in this year's presidential electioneering is the attack on the federal government. Most candidates, even those who live and work in the nation's capital, feel it necessary to criticize "Washington." And with good reason. The federal government used to be a relatively efficient instrument of delivering social services and money to individuals and to state and local officials. But in the past few years that efficiency has been lost. The General Accounting Office says it can't even figure out in some cases how much money goes for administration and how much for services. There is a great deal of duplication and waste. One reason is that there is no coordination of many programs, nor review of them once they are initiated.

Here is a typical situation. There are several programs in the health field that duplicate one another. The programs are authorized in different laws. Administrators are not aware of each others' existence. In the District of Columbia, for one example, there are eight neighborhood health care clinics in one neighborhood, while other neighborhoods there and in other cities have none. Congress and the Presidential Office of Management and Budget don't catch up with such overlapping until it is too late, because different laws authorize such facilities, and the laws expire in different years. Similar examples could be found in the defense field, or education, or housing, or. . . .

Senators Muskie and Roth, a Democrat and a Republican have prepared legislation aimed at doing something about this, as have several freshmen members of the House. The Muskie-Roth bill would not go so far as to require all departments to go to the "zero-budgeting" concept, where every single program has to be justified from scratch every year. This concept has been used with varying degrees of success in several states. Rather, this bill would limit all authorizations to four years. At that time they would get a zero-base review by the appropriate committees of Congress. All programs in a related field, like health, would be reviewed together.

Senate Majority Leader Mansfield has been urging Congress for years to spend more time reflecting on performance rather than initiating new programs or blindly increasing the money for old ones. This bill (of which he is a co-sponsor) sounds as if it would force Congress to do just that. It deserves a hearing.

FEDERAL BANKING POLICY AND CONSUMER EDUCATION

Mr. HATHAWAY. Mr. President, I was disappointed that the Senate was unable

to proceed to consider a number of bills from the Banking Committee which had been scheduled for yesterday. In particular, I regret we were unable to vote on S. 2304, the Financial Institutions Supervisory Act Amendments of 1976. These amendments would have strengthened and clarified a number of aspects of existing law and thereby would have provided far greater protection to all of our Nation's depositors.

This bill was aimed at curbing the abuses of so-called problem banks, which overextend and impair their assets due to imprudent loans and thereby endanger the safety and soundness of the institution as a whole.

This bill would have allowed our Federal banking agencies to issue cease and desist orders directly to individual officers involved in violations, whereas under existing law the agencies are limited to initiating proceedings against the institution only.

Modifying this to allow the individual to be reached directly would have greatly increased the deterrent value of our banking laws and regulations, and our customers would have benefited correspondingly. Along the same line, the bill would have allowed officers to be removed when they acted in a grossly negligent manner or exhibited willful disregard for the safety and soundness of their institution.

The bill also provided for the imposition of civil penalties upon individuals, banks, and institutions for violations of laws and regulations, the penalties ranging from $100 to $10,000 per day depending on the nature and extent of the violation in question.

The bill also, for the first time, would have imposed limitations on so-called insider loans. As pointed out in the committee report, excessive utilization of such loans led to many of the recent bank failures.

Since this bill was not considered yesterday, and since it now appears that it will not be brought up again until next year, I firmly hope that it will receive high priority on our agenda at that time. Its regulatory provisions are vitally important to the health of our banking system. At the same time, when the Banking Committee again considers this measure, I suggest that consideration be given to a companion policy to the regulatory provisions contained in S. 2304—namely, consumer education.

In the course of the committee's future work in this area, I would hope that it give careful consideration to increased utilization of mechanisms reasonably calculated to increase public awareness of all financial institutions' obligations to their depositors and other consumers, and, conversely, the consumers' rights and responsibilities with respect to the institutions.

In this regard I call to the attention of my colleagues the efforts of the State of Maine Bureau of Consumer Protection. This body has been in existence for only a few years, but has done an outstanding job of implementing and enforcing the State's uniform consumer credit code.

As created by the State legislature, this body has been empowered to conduct examinations of State banks for possible violations of the code, to pursue correction of such violations, to inform the consumers affected, and to conduct consumer education programs.

While authorized to employ up to five bank examiners, the bureau has in recent months been able to cut back to but one examiner.

Due to the bureau's success, its superintendent, Mr. John E. Quinn, has been invited to appear before both Senate and House committees and discuss methods for better coordinating State and Federal efforts and for adapting some of the programs of his bureau to Federal application.

Mr. Quinn testified before hearings of the Senate Committee on Banking, Housing and Urban Development, chaired by Senator PROXMIRE, in July, and more recently, last week, before Congressman ROSENTHAL's Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations.

One of the most intriguing and potentially beneficial programs Mr. Quinn has instituted is the Program for Consumer Education, which was explored in some detail before Congressman ROSENTHAL's subcommittee.

This program thus far has consisted primarily of public service television advertisements and the publication of a "Down Easter's Pocket Credit Guide," both of which efforts emphasize the potential savings that can result from an individual consumer's shopping around for credit.

The latter document has provoked considerable interest among Maine citizens. For example, its availability was recently noted in the Bangor Daily News, and the bureau was within 3 days swamped with 400 individual inquiries for copies. Employers have included the pocket guide in employee's pay envelopes. The original print of 10,000 copies made available 2 weeks ago is all but depleted, and new orders are piling up.

This response, and the bureau's ability to fulfill its duties with but one bank examiner, indicate to me that the people of Maine are truly interested in receiving greater knowledge about credit transactions in order that their decisions might be intelligent and fully informed. Equally important, I believe that the institutions coming under the jurisdiction of the Maine bureau, and more generally, all of our corporations will respond favorably and in a positive fashion, to consumers who base their market decisions on complete information of costs and benefits.

Our modern market place is far too complex for us to believe that the consumer can get along totally on his own, but in implementing Federal legislation designed to curb market abuses, we should not totally abandon the concept of "caveat emptor."

A skillful blending of sensible regulation, along with increased efforts to educate our consumers of their rights and responsibilities, could have great benefit if applied to our Federal scheme.

While I doubt we would be able to duplicate the success of Mr. Quinn's bureau in terms of cutting back on regulatory personnel, we will not know for sure until we make a vigorous effort.

I would therefore strongly urge the committees and agencies involved to give careful consideration to the idea of instituting consumer education programs, in the banking area and in all other areas where it could be useful.

In so acting, we would begin to explore the interrelationship between regulation and consumer choice, and would be taking an important step to show our constituents we are not indiscriminately committed to Federal regulation, inspection, and reporting, but rather are willing to place increased reliance on the marketplace, so long as that marketplace is increasingly inhabited by consumers who can think for themselves.

In an era when high school test results and other surveys indicate that many of our high school graduates and adults lack basis arithmetic skills, we should not delude ourselves into thinking pocket guides and tables are a complete answer, but we should be willing to upgrade our efforts.

I hope the committees involved will be able to institute pilot programs, and grants to State agencies to give us greater information in this area.

In order that my colleagues might have a better idea of the kind of programs I have in mind in this area, and to underline my belief that much can be accomplished with relatively little effort, by Federal standards, I ask unanimous consent that a copy of the "Down Easter's Pocket Credit Guide" be printed in the RECORD at the conclusion of my remarks. This document is no larger than a typical credit card and is only 32 pages long.

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

DOWN EASTER'S POCKET CREDIT GUIDE

Down Easters have a reputation of being good "horsetraders," yet when it comes to credit, they spend millions of dollars each year in unnecessary interest charges. Their "horse-sense" has been "buffaloed" by the complexities of credit. This wallet size guide is designed to put you back behind the reins. By using it, you won't apply for credit with your hat in your hand, you'll bargain for credit with an eye toward saving money.

State of Maine, Bureau of Consumer Protection, Augusta, Maine 04330. Tel: 289-3731.

SHOPPING FOR CREDIT

Imagine that you need to borrow $4000 for a new car. If financed through a car dealer, you could pay as much as 13%. But the same amount could probably be obtained through a bank or credit union at, say, 10%.

By using one of the charts provided.

Compare: 13 percent for 3 years vs. 10 percent. The following was taken from Table 1 pages 11 and 14.

13 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$4,000	357	287	190	564	135	852	107	1,151

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$4,000	352	220	185	480	129	647	101	870

$852 vs. $647; means a savings of $205.

Let's say you need to borrow $10,000 for a mobile home. Compare the total finance charge at 13%, for 10 years, vs. 12% (Use the second set of tables, which have been designed for longer term loans.)

$7918 vs. $7218; means a savings of $700.

Before signing the "dotted-line," call several lenders to find out about their Annual Percentage Rate. Then use this Guide to compare the costs. You'll notice that the lower the Annual Percentage Rate, the lower the total Finance Charge, and the lower the monthly payments. You'll be able to make an unhurried decision at home, away from the busy loan officer, or salesperson.

CREDIT SHOPPING TIPS

Put some pressure on the lender. Many lenders think that consumers are only interested in how much the monthly payments are. Let them know you're a Credit Shopper. Your first question should be, "What's the Annual Percentage Rate?" Those who never ask usually end up paying the long dollar.

Look for "simple interest" loans. You'll pay no more nor less than you should. And if you make some payments ahead of schedule, you can reduce the total finance charge.

Explore all sources of credit. Loans secured by the cash surrender value of insurance policies, and loans secured by savings or share accounts are usually the cheapest. Insurance policy loans can be obtained from your insurance company; call your agent.

Most Bank Credit Cards carry the maximum Annual Percentage Rate the law allows, 18%. Additionally, Banks get a commission from merchants on all goods and services purchased with their cards. This extra charge, usually 2–5%, is of course, passed on to the consumer. You'll need to do some shopping to find one, but a few Maine Banks offer cards at 12%.

Dealer reserve: Mobile-home and car-dealers usually get a certain percentage of the Finance Charge on contracts they arrange. This "commission" is called a Dealer Reserve.

You can avoid paying such commissions by going directly to a Bank, Credit Union, or Finance Company to arrange for your own financing.

The lower the Annual Percentage Rate, the more you can afford to buy on credit. A $2000 loan for 3 years at 20% costs $74 per month. But for the same payment and length of time, you can borrow $2300 at 10%; that's $300 more! A $10,000 loan for 15 years at 14% costs $133 per month. But, for the same payment and length of time, you can borrow $11,100 at 12%; that's $1100 more! *Credit Shopping might mean that you can afford those little extras that seemed just out of reach before.*

Many lenders offer package deals such as, "free" gifts if you take out a loan, lower rates in return for opening a checking or savings account, or "free" life insurance, A wise credit shopper looks at the total cost. How much is the "free" gift worth, are the checking and savings accounts competitive, is the life insurance really free?

INDEX TO TABLES

TABLE I

Use for auto loans, furniture and appliance loans etc.

TABLE II

Use for mobile home loans, home improvement loans etc.

TABLE III

Use for mortgages.

Notes:

1. All figures have been rounded to the nearest dollar.

2. Amounts within the same column may be added together to find payments and finance charges for loan amounts not listed.

TABLE I

8 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	4	5	9	3	13	2	22
$500	44	22	21	43	16	64	12	86
$1,000	87	44	45	86	31	128	24	172
$1,500	130	66	68	128	47	192	37	258
$2,000	174	88	90	171	63	256	49	344
$2,500	217	110	113	214	78	321	61	430
$3,000	261	132	136	257	94	384	73	516
$3,500	304	154	158	299	110	448	85	602
$4,000	348	176	181	342	125	513	98	688
$4,500	391	197	204	385	141	577	110	773
$5,000	435	219	226	427	157	640	122	859
$5,500	478	241	249	470	172	705	134	945
$6,000	522	263	271	513	188	769	146	1,031

8½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	9	3	14	2	19
$500	44	23	23	46	16	68	12	92
$1,000	87	47	45	91	32	137	25	183
$1,500	131	70	68	137	47	205	37	275
$2,000	174	93	91	182	63	273	49	366
$2,500	218	117	114	227	79	341	62	458
$3,000	262	140	136	273	95	410	74	550
$3,500	305	163	159	318	110	478	86	641
$4,000	349	187	182	364	126	546	99	733
$4,500	392	210	205	409	142	614	111	824
$5,000	436	233	227	455	158	682	123	916
$5,500	480	257	250	500	174	751	136	1,007
$6,000	523	280	273	546	189	819	148	1,099

9 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	10	3	14	2	20
$500	44	25	23	48	16	72	12	98
$1,000	87	50	46	97	32	145	25	195
$1,500	131	74	69	14	48	217	37	292
$2,000	175	99	91	19	64	290	50	389
$2,500	219	124	114	241	80	362	62	487
$3,000	262	148	137	289	95	434	75	584
$3,500	306	173	160	338	111	507	87	681
$4,000	350	198	183	386	127	579	100	778
$4,500	394	222	206	434	143	652	112	876
$5,000	137	247	228	482	159	724	124	973
$5,500	481	272	251	530	175	796	137	1,070
$6,000	525	297	274	579	191	896	149	1,167

9½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	5	5	10	3	16	3	21
$500	44	26	23	51	16	77	13	103
$1,000	88	52	46	102	32	153	25	206
$1,500	132	78	69	153	48	230	38	309
$2,000	175	104	92	204	64	307	50	412
$2,500	219	131	115	255	80	383	63	515
$3,000	263	157	138	306	96	460	75	618
$3,500	307	183	161	357	112	536	88	721
$4,000	351	209	184	408	128	613	101	824
$4,500	395	235	207	459	144	689	113	927
$5,000	438	261	230	510	160	766	126	1,030
$5,500	482	287	253	560	176	843	138	1,133
$6,000	526	313	275	612	192	919	151	1,236

TABLE I—Continued

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	11	3	16	3	22
$500	44	28	23	54	16	81	13	109
$1,000	88	55	46	108	32	162	25	218
$1,500	132	83	69	161	48	243	38	326
$2,000	176	110	92	215	65	323	51	435
$2,500	220	137	115	269	81	404	63	544
$3,000	264	165	138	323	97	485	76	652
$3,500	308	193	162	376	113	566	89	761
$4,000	352	220	185	430	129	647	101	870
$4,500	396	248	208	484	145	728	114	979
$5,000	440	275	221	538	161	808	127	1,087
$5,500	484	302	254	591	177	889	140	1,196
$6,000	528	330	277	645	194	970	152	1,305

10½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	11	3	17	3	23
$500	44	29	23	57	16	85	13	115
$1,000	88	58	46	113	33	170	26	229
$1,500	132	88	70	170	49	260	39	350
$2,000	176	116	93	226	65	340	51	229
$2,500	221	146	116	284	82	434	64	584
$3,000	264	173	139	339	98	510	77	687
$3,500	309	204	162	398	114	608	90	818
$4,000	353	231	186	452	130	680	102	916
$4,500	397	263	208	511	146	781	116	1,051
$5,000	441	289	232	565	163	851	128	1,145
$5,500	485	321	255	625	179	955	141	1,285
$6,000	529	347	278	678	195	1,021	154	1,374

11 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	12	3	18	3	24
$500	44	30	23	59	16	89	13	121
$1,000	88	61	47	119	33	179	26	241
$1,500	133	91	70	178	49	268	39	361
$2,000	177	121	93	237	65	357	52	482
$2,500	221	152	117	296	82	447	65	602
$3,000	265	182	140	356	98	536	78	722
$3,500	309	212	163	415	115	625	90	842
$4,000	354	242	186	475	131	715	103	963
$4,500	398	273	210	534	147	804	116	1,083
$5,000	442	303	233	593	164	893	129	1,203
$5,500	486	333	256	652	180	983	142	1,324
$6,000	530	363	280	712	196	1,072	155	1,444

11½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	6	5	13	3	19	3	25
$500	44	32	23	62	16	94	13	126
$1,000	89	63	47	124	33	187	26	252
$1,500	133	97	70	188	50	282	39	378
$2,000	177	127	94	249	66	375	52	504
$2,500	222	161	117	314	83	470	65	632
$3,000	266	190	141	373	99	561	78	757
$3,500	310	225	164	440	116	658	91	885
$4,000	354	254	187	497	132	749	104	1,009
$4,500	399	290	211	565	149	846	117	1,138
$5,000	443	317	234	621	165	936	130	1,262
$5,500	488	354	258	691	182	1,034	144	1,390
$6,000	532	380	281	745	198	1,123	157	1,514

12 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	5	3	20	3	27
$500	44	33	24	65	17	98	13	132
$1,000	89	66	47	130	33	196	26	264
$1,500	133	99	71	195	50	294	40	396
$2,000	178	132	94	260	66	391	53	528
$2,500	222	166	118	325	83	489	66	660
$3,000	267	199	141	390	100	587	79	792
$3,500	311	232	165	454	116	685	92	924
$4,000	355	265	188	519	133	783	105	1,056
$4,500	400	298	212	584	149	881	119	1,188
$5,000	444	331	235	649	166	979	132	1,320
$5,500	489	364	259	714	183	1,076	145	1,452
$6,000	533	397	282	779	199	1,174	158	1,584

12½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	14	3	21	3	28
$500	45	35	24	68	17	102	13	138
$1,000	89	69	47	135	33	205	27	276
$1,500	134	104	71	206	50	309	40	415
$2,000	178	138	95	271	67	409	53	552
$2,500	223	173	119	344	84	515	67	692
$3,000	267	207	142	406	100	613	80	828
$3,500	312	242	166	482	117	721	93	967
$4,000	356	276	189	542	134	818	106	1,103
$4,500	401	311	213	619	151	927	120	1,246
$5,000	445	345	237	677	167	1,022	133	1,379
$5,500	490	381	261	757	184	1,133	146	1,522
$6,000	535	414	284	812	201	1,226	159	1,655

13 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	7	5	14	3	21	3	29
$500	45	36	24	71	17	107	13	144
$1,000	89	72	48	141	34	213	27	288
$1,500	134	109	71	214	51	320	40	437
$2,000	179	144	95	282	67	426	54	576
$2,500	224	182	119	356	84	533	67	728
$3,000	268	216	143	423	101	639	80	864
$3,500	313	255	167	499	118	746	94	1,019
$4,000	357	287	190	564	135	852	107	1,151
$4,500	402	327	214	641	152	959	121	1,310
$5,000	447	359	238	705	168	1,065	134	1,439
$5,500	492	400	262	783	185	1,173	148	1,602
$6,000	536	431	285	846	202	1,278	161	1,727

13½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	15	3	22	3	30
$500	45	38	24	73	17	111	14	150
$1,000	90	75	48	147	34	222	27	300
$1,500	134	113	72	221	51	336	41	451
$2,000	179	149	96	293	68	444	54	600
$2,500	224	188	120	368	85	560	68	752
$3,000	269	224	143	440	102	665	91	899
$3,500	314	263	167	515	119	784	95	1,053
$4,000	358	299	191	587	136	887	108	1,199
$4,500	403	338	215	662	153	1,008	122	1,354
$5,000	448	373	269	733	170	1,108	135	1,499
$5,500	393	414	263	810	187	1,232	149	1,654
$6,000	537	448	287	880	204	1,330	162	1,798

TABLE I—Continued

14 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	15	3	23	3	32
$500	45	39	24	76	17	115	14	156
$1,000	90	77	48	152	34	230	27	312
$1,500	135	116	72	232	51	347	41	473
$2,000	180	155	96	305	68	461	55	624
$2,500	225	194	120	386	86	578	69	788
$3,000	269	232	144	457	103	691	82	935
$3,500	314	272	168	540	120	809	96	1,103
$4,000	359	310	192	609	137	922	109	1,247
$4,500	404	349	216	695	154	1,040	123	1,418
$5,000	449	387	240	762	171	1,152	137	1,559
$5,500	494	427	265	849	188	1,272	151	1,734
$6,000	539	465	268	914	205	1,383	164	1,870

14½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	16	3	24	3	32
$500	45	40	24	79	17	120	14	162
$1,000	90	80	48	158	34	239	28	324
$1,500	135	122	72	239	52	363	41	487
$2,000	180	161	97	316	69	479	55	648
$2,500	225	203	121	398	86	605	69	812
$3,000	270	241	145	474	103	718	83	972
$3,500	315	284	169	557	121	847	97	1,137
$4,000	360	321	193	632	138	957	110	1,295
$4,500	405	353	217	716	155	1,089	124	1,462
$5,000	450	401	241	790	172	1,196	138	1,619
$5,500	496	447	266	876	190	1,331	152	1,786
$6,000	540	482	290	948	207	1,435	165	1,943

15 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	8	5	16	3	25	3	34
$500	45	42	24	82	17	124	14	168
$1,000	90	83	49	164	35	248	28	336
$1,500	135	125	73	246	52	374	42	509
$2,000	181	166	97	328	69	496	56	672
$2,500	226	209	125	410	87	623	70	848
$3,000	271	249	145	491	104	744	81	1,008
$3,500	316	293	170	574	121	872	98	1,187
$4,000	361	332	194	655	139	992	111	1,344
$4,500	406	376	218	738	156	1,121	126	1,526
$5,000	451	416	242	819	173	1,240	139	1,680
$5,500	497	460	267	902	191	1,371	153	1,865
$6,000	542	499	291	982	208	1,488	167	2,016

15½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	17	4	26	3	35
$500	45	43	24	85	17	129	14	174
$1,000	91	86	49	170	35	257	28	348
$1,500	136	129	73	257	53	390	42	523
$2,000	181	172	97	339	70	514	56	696
$2,500	226	215	122	428	88	650	70	872
$3,000	271	258	146	508	105	771	84	1,044
$3,500	317	301	171	599	123	910	98	1,221
$4,000	362	344	195	678	140	1,027	112	1,392
$4,500	407	387	230	770	158	1,170	126	1,570
$5,000	452	430	244	847	175	1,284	140	1,741
$5,500	498	473	268	942	193	1,430	155	1,918
$6,000	543	516	292	1,016	209	1,541	167	2,088

16 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	18	4	27	3	36
$500	45	44	24	88	18	133	14	181
$1,000	91	89	49	175	35	266	28	361
$1,500	136	134	74	264	53	401	43	545
$2,000	181	178	98	350	70	532	57	721
$2,500	227	224	123	440	88	668	71	908
$3,000	272	266	147	525	105	797	85	1,081
$3,500	318	314	172	616	123	935	99	1,271
$4,000	363	355	196	701	141	1,063	113	1,442
$4,500	409	403	221	792	158	1,202	128	1,634
$5,000	454	444	245	876	176	1,328	142	1,802
$5,500	499	493	270	968	194	1,470	156	1,997
$6,000	544	532	294	1,051	211	1,594	170	2,162

16½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	9	5	18	4	27	3	37
$500	46	46	25	90	18	137	14	186
$1,000	91	92	49	181	35	274	29	373
$1,500	137	138	74	271	53	412	43	559
$2,000	182	184	98	362	71	549	57	746
$2,500	228	230	123	452	89	686	72	932
$3,000	273	276	148	542	106	823	86	1,118
$3,500	319	322	172	633	124	960	100	1,305
$4,000	364	368	197	723	142	1,098	114	1,491
$4,500	410	414	221	814	159	1,235	129	1,678
$5,000	455	460	246	904	177	1,372	143	1,864
$5,500	501	506	271	994	195	1,509	157	2,050
$6,000	546	552	295	1,085	212	1,646	172	2,237

17 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	19	4	29	3	39
$500	46	47	25	94	18	142	14	193
$1,000	91	95	49	187	36	284	29	385
$1,500	137	143	74	282	54	428	43	581
$2,000	182	189	99	373	71	567	58	771
$2,500	228	239	124	470	89	713	72	968
$3,000	274	283	148	560	107	851	87	1,155
$3,500	320	335	173	658	125	998	101	1,355
$4,000	365	378	198	746	143	1,134	115	1,541
$4,500	411	430	223	846	161	1,283	130	1,742
$5,000	456	472	247	933	178	1,418	144	1,925
$5,500	502	526	272	1,034	196	1,569	159	2,130
$6,000	547	567	297	1,120	214	1,701	173	2,311

17½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	19	4	29	3	40
$500	46	48	25	96	18	146	15	198
$1,000	91	97	50	193	36	292	29	397
$1,500	137	145	75	289	54	439	44	595
$2,000	183	194	99	386	72	585	58	794
$2,500	229	242	124	482	90	731	73	992
$3,000	274	290	149	578	108	877	87	1,190
$3,500	320	339	174	675	126	1,023	102	1,389
$4,000	366	387	199	771	144	1,170	116	1,587
$4,500	411	436	224	868	162	1,316	131	1,885
$5,000	457	484	249	964	180	1,462	146	1,984
$5,500	503	532	273	1,060	197	1,608	160	2,182
$6,000	548	581	298	1,157	215	1,754	175	2,381

TABLE I—Continued

18 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	20	4	30	3	41
$500	46	50	25	99	18	151	15	205
$1,000	92	100	50	198	36	302	29	410
$1,500	138	151	75	300	54	455	44	617
$2,000	183	200	100	396	72	603	59	820
$2,500	229	251	125	500	91	758	74	1,028
$3,000	275	300	150	595	108	905	88	1,230
$3,500	321	351	175	700	127	1,061	103	1,439
$4,000	367	401	200	793	145	1,206	118	1,640
$4,500	413	452	225	900	163	1,364	132	1,850
$5,000	458	501	230	991	181	1,508	147	2,050
$5,500	364	552	275	1,100	469	1,667	162	2,262
$6,000	550	601	300	1,189	217	1,809	176	1,460

18½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	10	5	20	4	31	3	42
$500	46	51	25	102	18	155	15	210
$1,000	92	103	50	205	36	310	30	421
$1,500	138	154	75	307	55	466	44	631
$2,000	184	206	100	410	73	621	59	842
$2,500	230	257	126	512	91	776	74	1,052
$3,000	276	308	151	614	109	921	89	1,262
$3,500	322	360	176	717	127	1,086	104	1,473
$4,000	368	411	201	819	146	1,242	118	1,683
$4,500	414	463	226	922	164	1,397	133	1,894
$5,000	460	514	231	1,024	182	1,552	148	2,104
$5,500	505	565	276	1,126	200	1,707	163	2,314
$6,000	551	617	301	1,229	218	1,862	178	2,525

19 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	5	21	4	32	3	44
$500	46	53	25	105	18	161	15	118
$1,000	92	106	50	210	37	321	30	435
$1,500	138	160	76	314	55	482	45	653
$2,000	184	213	101	419	73	642	60	870
$2,500	231	266	126	524	92	803	75	1,088
$3,000	277	319	151	629	110	964	90	1,306
$3,500	323	372	176	734	128	1,124	105	1,523
$4,000	369	426	202	838	147	1,285	120	1,741
$4,500	415	479	227	943	165	1,445	135	1,958
$5,000	461	532	252	1,048	184	1,606	150	2,176
$5,500	507	585	277	1,151	202	1,766	164	2,393
$6,000	553	638	302	1,258	220	1,927	179	2,611

19½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	5	22	4	33	3	45
$500	46	54	25	108	18	164	15	225
$1,000	92	109	51	217	37	328	30	450
$1,500	139	163	76	325	55	493	45	674
$2,000	185	218	101	434	74	657	60	899
$2,500	231	272	127	542	92	821	76	1,124
$3,000	277	326	152	650	111	985	91	1,349
$3,500	323	381	177	759	129	1,149	106	1,574
$4,000	370	435	203	867	148	1,314	121	1,798
$4,500	416	490	228	976	166	1,478	136	2,023
$5,000	462	544	254	1,084	185	1,642	151	2,248
$5,500	508	598	279	1,192	203	1,806	166	2,473
$6,000	554	653	304	1,301	221	1,970	181	2,698

20 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	1 yr		2 yr		3 yr		4 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	9	11	6	22	4	34	3	46
$500	46	56	25	111	19	170	15	230
$1,000	93	111	51	222	37	339	30	459
$1,500	139	167	76	332	56	509	46	689
$2,000	185	222	102	443	74	678	61	918
$2,500	232	278	127	554	93	848	76	1,148
$3,000	278	334	153	665	112	1,018	91	1,378
$3,500	324	389	178	776	130	1,187	106	1,607
$4,000	370	445	204	886	149	1,357	122	1,837
$4,500	417	500	229	997	167	1,526	137	2,066
$5,000	463	556	255	1,108	186	1,696	152	2,296
$5,500	509	612	280	1,219	205	1,866	167	2,526
$6,000	556	667	305	1,330	223	2,035	182	2,755

TABLE II

9 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	1	41	1	52	1	64	1	84
$1,000	15	407	13	520	11	640	10	827
$5,000	73	2,033	63	2,601	57	3,195	51	4,130
$10,000	147	4,065	127	5,202	114	6,389	101	8,257
$15,000	220	6,097	190	7,802	171	9,582	152	12,385
$20,000	293	8,129	253	10,403	228	12,776	263	16,515

9½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	44	1	56	1	68	1	89
$1,000	15	432	13	553	12	680	10	881
$5,000	75	2,158	65	2,764	58	3,398	52	4,400
$10,000	149	4,315	129	5,528	117	6,796	104	8,797
$15,000	224	6,472	194	8,292	175	10,194	157	13,195
$20,000	298	8,629	259	11,056	233	13,592	209	17,593

TABLE II—Continued

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	46	1	50	1	73	1	94
$1,000	15	457	13	586	12	722	11	935
$5,000	76	2,284	66	2,930	60	3,605	54	4,673
$10,000	152	4,568	132	5,859	120	7,209	107	9,345
$15,000	228	6,852	198	8,788	179	10,815	161	14,016
$20,000	303	9,135	264	11,717	239	14,419	215	18,687

10½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	49	1	62	1	77	1	94
$1,000	15	483	14	620	12	764	11	940
$5,000	77	2,412	67	3,098	61	3,814	54	4,697
$10,000	154	4,823	135	6,193	122	7,628	108	9,391
$15,000	232	7,235	202	9,289	184	11,443	162	14,086
$20,000	309	9,646	270	12,384	245	15,256	215	18,781

11 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	52	1	66	1	81	1	105
$1,000	16	508	14	654	13	806	11	1,047
$5,000	79	2,541	69	3,266	63	4,026	57	5,229
$10,000	157	5,081	138	6,531	125	8,052	114	10,459
$15,000	236	7,620	207	9,796	188	12,078	170	15,688
$20,000	314	10,160	276	13,061	251	16,104	227	20,918

11½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	54	1	69	1	86	1	111
$1,000	16	534	14	687	13	849	12	1,104
$5,000	80	2,670	70	3,436	64	4,240	58	5,514
$10,000	160	5,341	141	6,872	128	8,481	117	11,028
$15,000	240	8,011	211	10,308	193	12,720	175	16,541
$20,000	320	10,681	281	13,744	257	16,960	234	22,055

12 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	56	1	73	1	90	1	118
$1,000	16	561	14	722	13	892	12	1,162
$5,000	81	2,802	72	3,609	66	4,458	60	5,802
$10,000	163	5,603	143	7,218	131	8,914	120	11,604
$15,000	244	8,405	215	10,825	197	13,371	180	17,405
$20,000	325	11,206	287	14,434	263	17,827	240	23,207

12½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	59	1	76	1	94	1	123
$1,000	17	587	15	757	13	936	12	1,219
$5,000	83	2,934	73	3,783	67	4,677	62	6,093
$10,000	165	5,868	146	7,566	134	9,352	123	12,187
$15,000	248	8,802	220	11,348	202	14,028	185	18,278
$20,000	331	11,736	293	15,131	269	18,704	247	24,372

13 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	62	2	80	1	99	1	129
$1,000	17	614	15	793	14	980	13	1,279
$5,000	84	3,068	75	3,959	69	4,899	63	6,389
$10,000	168	6,136	149	7,918	137	9,796	127	12,775
$15,000	252	9,203	224	11,876	206	14,693	190	19,162
$20,000	336	12,270	299	15,836	275	19,590	253	25,549

13½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	64	2	84	1	103	1	134
$1,000	17	641	15	828	14	1,025	13	1,338
$5,000	85	3,203	76	4,137	70	5,122	65	6,686
$10,000	171	6,405	152	8,274	141	10,244	130	13,371
$15,000	256	9,608	228	12,410	211	15,364	195	20,055
$20,000	342	12,810	305	16,546	281	20,486	260	26,741

14 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	67	2	87	1	107	1	141
$1,000	17	668	16	864	14	1,071	13	1,398
$5,000	87	3,339	78	4,317	72	5,348	67	6,986
$10,000	174	6,677	155	8,632	144	10,696	133	13,972
$15,000	261	10,016	233	12,948	216	16,042	200	20,959
$20,000	347	13,354	311	17,265	287	21,390	266	27,943

14½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr		10 yr		12 yr		15 yr	
	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge	Monthly payment	Total finance charge
$100	2	70	2	91	1	112	1	147
$1,000	18	695	16	900	15	1,115	14	1,459
$5,000	88	3,476	79	4,498	73	5,577	68	7,290
$10,000	177	6,952	158	8,995	147	11,152	137	14,581
$15,000	265	10,427	237	13,493	220	16,728	205	21,869
$20,000	353	13,902	317	17,990	294	22,303	273	29,160

TABLE II—Continued

15 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr Monthly payment	8 yr Total finance charge	10 yr Monthly payment	10 yr Total finance charge	12 yr Monthly payment	12 yr Total finance charge	15 yr Monthly payment	15 yr Total finance charge
$100	2	73	2	94	1	117	1	152
$1,000	18	723	16	937	15	1,161	14	1,520
$5,000	90	3,614	81	4,680	75	5,807	70	6,296
$10,000	179	7,228	161	9,361	150	11,613	140	15,193
$15,000	269	10,842	242	14,041	225	17,420	210	22,789
$20,000	259	14,455	323	18,720	300	23,226	280	30,386

15½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr Monthly payment	8 yr Total finance charge	10 yr Monthly payment	10 yr Total finance charge	12 yr Monthly payment	12 yr Total finance charge	15 yr Monthly payment	15 yr Total finance charge
$100	2	76	2	98	2	122	1	159
$1,000	18	751	16	974	15	1,209	14	1,581
$5,000	91	3,753	82	4,865	77	6,040	72	7,906
$10,000	182	7,507	164	9,730	153	12,080	143	15,812
$15,000	274	11,260	247	14,594	230	18,119	215	23,718
$20,000	365	15,013	329	19,460	307	24,158	287	31,624

16 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	8 yr Monthly payment	8 yr Total finance charge	10 yr Monthly payment	10 yr Total finance charge	12 yr Monthly payment	12 yr Total finance charge	15 yr Monthly payment	15 yr Total finance charge
$100	2	79	2	102	2	126	1	165
$1,000	19	779	17	1,011	16	1,255	15	1,644
$5,000	93	3,894	84	5,051	78	6,275	73	8,219
$10,000	185	7,788	168	10,102	157	12,549	147	16,438
$15,000	278	11,682	251	15,152	235	18,823	220	24,656
$20,000	371	15,576	335	20,204	313	25,096	294	32,875

TABLE III

6 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	8	519	7	721	6	935	6	1,160
$10,000	81	5,190	72	7,196	64	9,332	60	11,586
$15,000	127	7,784	107	10,793	97	13,995	90	17,378
$20,000	169	10,380	143	14,390	129	18,661	120	23,171
$25,000	211	12,975	179	17,986	161	23,324	150	28,960
$30,000	253	15,569	215	21,583	193	27,990	180	34,753
$35,000	295	18,163	251	25,182	226	32,563	210	40,546
$40,000	388	20,759	287	28,779	258	37,319	240	46,339
$45,000	380	23,353	322	32,376	290	41,982	270	52,128
$50,000	422	25,947	358	35,973	322	46,648	300	57,921

6¼ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	9	570	7	790	7	1,028	6	1,279
$10,000	87	5,682	75	7,894	68	10,259	63	12,756
$15,000	131	8,521	112	11,842	101	15,387	95	19,135
$20,000	174	11,631	149	15,789	135	20,515	126	25,511
$25,000	218	14,200	186	19,736	169	25,643	158	31,887
$30,000	261	17,041	224	23,683	203	30,771	190	39,643
$35,000	305	19,880	261	27,630	236	35,899	221	44,643
$40,000	348	22,721	298	31,575	270	41,027	253	51,019
$45,000	392	25,560	336	35,522	304	45,155	284	57,398
$50,000	436	28,401	373	39,470	338	51,283	316	53,774

7 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	9	618	8	862	7	1,121	7	1,398
$10,000	90	6,180	78	8,607	71	11,204	67	13,954
$15,000	135	9,269	116	12,912	106	16,806	100	20,928
$20,000	180	12,359	155	17,214	141	22,408	133	27,905
$25,000	225	15,448	194	21,519	177	28,010	166	34,879
$30,000	270	18,537	233	25,822	212	33,612	200	41,856
$35,000	315	21,626	271	30,126	247	39,214	233	48,830
$40,000	360	24,717	310	34,428	283	44,816	266	55,807
$45,000	404	27,806	349	38,734	318	50,418	299	62,780
$50,000	449	30,896	388	43,036	353	56,017	333	69,758

7½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	9	670	8	934	7	1,217	7	1,520
$10,000	93	6,688	81	9,334	74	12,170	70	15,175
$15,000	139	10,031	121	14,002	111	18,255	105	22,760
$20,000	185	13,374	161	18,669	148	24,340	140	30,346
$25,000	232	16,717	201	23,336	185	30,425	175	37,932
$30,000	278	20,060	242	28,003	222	36,510	210	45,517
$35,000	324	23,403	282	32,670	259	42,595	245	53,103
$40,000	371	26,746	322	37,338	296	48,680	280	60,688
$45,000	417	30,089	363	42,005	333	54,765	315	68,274
$50,000	464	33,432	403	56,672	370	60,850	350	75,860

8 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	10	721	8	1,009	8	1,316	7	1,642
$10,000	96	7,203	84	10,076	77	13,157	73	16,417
$15,000	143	10,803	125	15,113	116	19,734	110	24,625
$20,000	191	14,405	167	20,150	154	26,311	147	32,834
$25,000	239	18,006	209	25,189	193	32,888	183	41,042
$30,000	287	21,606	251	30,226	232	39,465	220	49,247
$35,000	334	25,206	293	35,262	270	46,042	257	57,455
$40,000	382	28,809	335	40,299	209	52,619	294	65,664
$45,000	430	32,409	376	45,336	347	59,196	330	73,872
$50,000	478	36,009	418	50,375	386	65,773	376	82,080

8½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	10	773	9	1,083	8	1,418	8	1,768
$10,000	98	7,726	87	10,830	81	14,159	77	17,684
$15,000	148	11,590	130	16,243	121	21,237	115	26,522
$20,000	197	15,451	174	21,657	161	28,315	154	35,364
$25,000	246	19,314	217	27,070	201	35,393	192	44,203
$30,000	295	23,177	260	32,484	245	43,359	231	53,045
$35,000	345	27,039	304	37,898	285	50,548	269	61,883
$40,000	394	30,902	347	43,311	326	57,812	308	70,725
$45,000	443	34,756	391	48,727	367	75,037	346	79,567
$50,000	492	38,627	434	54,141	408	82,265	394	88,406

TABLE III—Continued

9 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	10	827	9	1,160	8	1,520	8	1,898
$10,000	101	8,257	90	11,595	84	15,176	80	18,969
$15,000	152	12,385	135	17,390	126	22,764	121	28,452
$20,000	203	16,515	180	23,188	168	30,352	161	37,935
$25,000	254	20,643	225	28,986	210	37,940	201	47,418
$30,000	304	24,770	270	34,781	252	45,528	241	56,900
$35,000	355	28,900	315	40,578	294	53,116	282	66,383
$40,000	406	33,028	360	46,376	336	60,704	322	75,866
$45,000	456	37,156	405	52,171	378	68,292	362	85,352
$50,000	507	41,285	450	57,969	420	75,880	402	94,835

9½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	10	881	9	1,239	9	1,622	8	2,028
$10,000	104	8,797	93	12,373	87	16,211	84	20,272
$15,000	157	13,195	140	18,557	131	24,318	126	30,407
$20,000	209	17,593	186	24,743	175	32,422	168	40,545
$25,000	261	21,991	233	30,903	218	40,529	210	50,679
$30,000	313	26,389	280	37,114	262	48,633	252	60,814
$35,000	365	30,786	326	33,300	306	56,740	294	70,948
$40,000	418	35,184	373	49,486	349	64,844	336	81,086
$45,000	470	39,584	419	54,670	393	72,951	378	91,220
$50,000	522	43,982	466	61,857	437	81,055	420	101,355

10 PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	11	935	10	1,318	9	1,727	9	2,161
$10,600	107	9,345	97	13,162	91	17,264	88	21,594
$15,000	161	14,016	145	19,742	136	25,893	132	32,390
$20,000	215	18,687	193	26,322	182	34,525	176	43,187
$25,000	269	23,359	241	32,902	227	43,154	219	53,984
$30,000	322	28,030	290	39,482	273	51,786	263	64,781
$35,000	376	32,702	338	46,062	318	60,415	307	75,578
$40,000	430	37,373	386	52,642	363	69,047	351	86,371
$45,000	484	42,044	434	59,222	409	77,676	295	97,168
$50,000	537	46,716	483	65,805	454	86,308	439	107,964

10½ PERCENT ANNUAL PERCENTAGE RATE

Amount financed	15 yr Monthly payment	15 yr Total finance charge	20 yr Monthly payment	20 yr Total finance charge	25 yr Monthly payment	25 yr Total finance charge	30 yr Monthly payment	30 yr Total finance charge
$1,000	11	989	10	1,395	9	1,832	9	1,294
$10,000	111	9,890	100	13,952	94	18,320	92	12,940
$15,000	166	14,835	150	20,928	142	27,480	137	34,410
$20,000	221	19,780	200	27,904	189	36,640	183	45,880
$25,000	276	24,725	250	34,880	236	45,800	229	57,350
$30,000	332	29,670	300	41,856	283	54,960	275	68,820
$35,000	387	34,615	349	48,832	330	64,120	320	80,290
$40,000	442	39,560	399	55,808	378	73,280	366	91,760
$45,000	497	44,505	449	62,784	425	82,440	412	103,230
$50,000	555	49,450	499	69,760	472	91,600	458	114,700

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under morning business, I ask unanimous consent that on tomorrow, after completion of the two orders for recognition of Senators that have already been entered for Mr. PELL and Mr. ROBERT C. BYRD, the following Senators be recognized for not to exceed 10 minutes each: Mr. MUSKIE, Mr. PROXMIRE, Mr. KENNEDY, and Mr. HATHAWAY.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, I shall not object, inasmuch as we have closed the business today with respect to the attorneys' fees bill, and this has to do with the use of time tomorrow prior to the bringing up of the unfinished business. Therefore, I will not interpose an objection.

Mr. ROBERT C. BYRD. I thank the Senator.

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

BANK HOLDING COMPANY TAX ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time the Senate proceed to the consideration of the matter cleared on both sides of the aisle, Calendar Order No. 1126.

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

The assistant legislative clerk read as follows:

A bill (H.R. 11997) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

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

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been completed, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

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

ORDER FOR RECOGNITION OF SENATOR ALLEN TOMORROW

Mr. ALLEN. Mr. President, I understood that the time reserved for the distinguished Senator from West Virginia was 15 minutes, and that that time and the time of the distinguished Senator from Rhode Island (Mr. PELL) of 15 minutes was to be used for tributes to the distinguished senior Senator from Rhode Island (Mr. PASTORE).

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I seriously doubt if that will be sufficient. The Senator from Alabama has some remarks he would like to make during that period. I wonder if the distinguished Senator will extend that time somewhat.

Mr. ROBERT C. BYRD. I will be glad to.

Mr. President, I ask unanimous consent that following the remarks of Mr. PELL and my own remarks, the Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 15 minutes. It is my intention to yield most of my time tomorrow to other Senators who may wish to make remarks in tribute to Senator PASTORE.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in tomorrow at 9:30 a.m.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes: Mr. PELL, Mr. ALLEN, and Mr. ROBERT C. BYRD; after which the following Senators will be recognized, each for not to exceed 10 minutes: Mr. MUSKIE, Mr. PROXMIRE, Mr. KENNEDY, and Mr. HATHAWAY; after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Mr. President, the Senate on tomorrow will continue the consideration of S. 2278, the civil rights attorneys' fees, and it is

hoped that the Senate might also move to other business tomorrow. I would not want to exclude other business. There may be conference reports. There may be other measures that should be called up.

Rollcall votes will occur on tomorrow, and I think the Senate should be on notice that there may be other measures and conference reports called up in addition to the civil rights attorneys' fees bill.

ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7 p.m., the Senate adjourned until tomorrow, Wednesday, September 22, 1976, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1976:

FEDERAL ENERGY ADMINISTRATION

Michael F. Starr, of Louisiana, to be Director, Intergovernmental, Regional and Special Programs, Federal Energy Administration, vice William W. Geimer, resigned.

DEPARTMENT OF JUSTICE

David Keith Rutledge, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years vice Wilbur H. Dillahunty, term expired.

HOUSE OF REPRESENTATIVES—*Tuesday, September 21, 1976*

The House met at 12 o'clock noon.

Rev. Floyd I. Enzor, Sandy Bottom Baptist Church, Kinston, N.C., offered the following prayer:

O give thanks unto the Lord; call upon His name; make known His deeds among the people.—Psalms 105:1.

Let us pray:

We thank Thee, our Heavenly Father, for this solemn occasion; for these who represent the peoples of our Nation; for our position in world leadership; for our predecessors who endeavored to begin and continue the deeds of government, designed for the governed, and for Thy smile upon our Nation.

We acknowledge that Thou art God.

We ask Thy blessings upon our national leaders so our national objectives may be reached, and our needs met.

We desire for ourselves a vision so man will not perish from the Earth. We ask for tolerance of each other in our varied opinions of life and religion.

Accept this our prayer today that Thy kingdom may come and Thy will be done on Earth as it is done in Heaven, in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 14973. An act to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association; and

H.R. 14298. An act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

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

H.R. 12961. An act to amend the Social Security Act to repeal the requirement that a State's plan for medical assistance under title XIX of such act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services;

H.R. 13549. An act to provide for additional income for the U.S. Soldiers' and Airmen's Home by requiring the Board of Commissioners of the home to collect a fee from the members of the home, by appropriating nonjudicial forfeitures for support of the home, and by increasing the deductions from pay of enlisted men and warrant officers;

H.R. 14299. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes; and

H. Con. Res. 688. Concurrent resolution authorizing printing of the folder "The United States Capitol" as a House document.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3091) entitled "An act to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. JACKSON, Mr. EASTLAND, Mr. CHURCH, Mr. HUMPHREY, Mr. METCALF, Mr. CURTIS, Mr. HATFIELD, Mr. HELMS, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3219) entitled "An act to amend the Clean Air Act, as amended," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. RANDOLPH, Mr. GRAVEL, Mr. MORGAN, Mr. CULVER, Mr. GARY HART, Mr. BAKER, Mr. BUCKLEY, Mr. STAFFORD, Mr. MCCLURE, and Mr. DOMENICI to be the conferees on the part of the Senate.

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

S. 784. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes;

S.J. Res. 173. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days beginning September 26, 1976, as "National Pork Week";

S.J. Res. 181. Joint resolution to authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes;

S.J. Res. 213. Joint resolution to provide temporary authority for qualified individuals to hear and determine claims under title IV of the Coal Mine Health and Safety Act of 1969, as amended; and

S.J. Res. 214. Joint resolution to require the Secretary of Agriculture to dispose of surplus peanuts at competitive market prices.

The message also announced that Mr. BURDICK be removed as a conferee, on the part of the Senate, on the bill (S. 2710) entitled "An act to extend certain authorizations under the Federal Water Pollution Control Act, as amended."

THE REVEREND FLOYD I. ENZOR

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

Mr. JONES of North Carolina. Mr. Speaker, it is indeed a pleasure to welcome the Reverend Floyd Enzor, pastor of the Sandy Bottom Baptist Church of Kinston, N.C., to the House of Representatives today. I am sure we were all impressed with his sincerity and inspiring prayer. With us here today are his wife, Mrs. Enzor, and their friends, Mr. and Mrs. William Croom. I am sure the Members join me in extending a warm welcome to these fine people.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 14260, FOREIGN ASSISTANCE APPROPRIATIONS

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 14260, a bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to