and Human Resources of the House of Representatives' Committee on Government Operations draft and approve, and members of the Congress of the United States, enact, legislation continuing federal general revenue sharing in 1977, providing:

1. Multiple year appropriations at least at the level of assistance now provided to participating units of local government under the State and Local Assistance Act of 1972.

2. Regular increases in the level of assistance corresponding to increases caused by inflation in the cost of providing government services.

3. Maximum flexibility in the use of federal general revenue sharing by units of local government, and

Be it resolved, that the Town Board requests that members of said Committee approve and Congress enact this legislation promptly to permit adequate time for units of local government to plan and budget for expenditures during the year commencing January 1, 1977.

WHERE ARE CONSUMER ADVOCATES WHEN IT COMES TO UNION FEATHERBEDDING?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 7, 1976

Mr. ASHBROOK. Mr. Speaker, I never cease to be amazed by the double standard of my liberal friends in this body, particularly those who call themselves consumer advocates. According to their thesis, the public is dumb and needs protection but that cloak of protection only extends to alleged bad business practices Big government and government controls are desired and shortcomings are only found in the free enterprise system, particularly in business. The most arrogant unions escape their scrutiny and the Nader disciples look for practices which adversely affect the consumer everywhere else, never labor.

Americans in increasing numbers are coming to understand that an attitude of intransigence and "the public be damned" on the part of many of our unions adversely affects the economy and represents an important part of the inflationary spiral in which we seem to be locked. The example of Great Britain presents a specter of what socialization, the end result of what the trade unions in England steadfastly sought, is doing in destroying that once proud nation. We see many similar attitudes in this country. The postal unions take the position that no sound management decision can affect their jobs. Cut everywhere else, they say, but you cannot lay off one single postal employee. San Francisco municipal unions are adamant in their public-be-damned attitude. They tell city officials to cut elsewhere but touch not a hair on their heads. Everywhere, it seems to be the same thing. No matter what the situation is, union leaders demand more, regardless. In education, radical unionists claim they have the student's interests at heart but their demands are for more pay and less work.

Thousands of examples can be given of these practices which increase the cost for the consumer who must ultimately pay the bill. More and more union members are recognizing this and, indeed, there is within the rank and file of the union an increasing awareness that demands should be reasonable. However, like politics the union leaders find that you have to overpromise, overcommit, overdemand to be elected or keep the movement going.

Let me point out one significant illustration of this intransigent attitude which makes every consumer pay. In the official U.S. Department of Transportation, Federal Highway Administration, and New York State Department of Transportation Draft Environmental Impact Statement, and section 4(f) statement for the west side highway, Interstate Route 478, the following passage is neatly tucked away:

> The only significant investment in West Side shipping facilities since World War II has been the extensive remodeling of four finger piers at 23rd Street alongside Chelsea, and the construction of the three-berth box-like Pier 40 at Houston Street alongside the West Village. Both of these occurred more than ten years ago, and these facilities have only very limited container capability. The remodeled Chelsea Piers have not serviced a ship since 1968, and present cargo operations at Pier 40 are small. However, it should be noted that while the Chelsea piers have been classified as inactive since 1968, and prospects of revival for ocean traffic are remote, these piers continue to serve as a source of income for a large number of men. Collective bargaining agreements between the international Longshoremen's Association (ILA) and the New York Shipping Association provide a "Guaranteed Annual Income" (GAI) for all qualified union members in the Port, whether or not work exists for them. The GAI is paid from a special fund endowed by assessments on various shipping lines according to a formula based upon tonnages and man-hours. An eligible Longshoreman can collect his full annual wage in the form of GAI by merely signing in each working day at the appropriate waterfront hiring center. About 450 Longshoremen in the Chelsea area are estimated to be eligible for GAI, reporting each working day to find that there is no work, for there are no ships calling at the Chelsea piers. Thus, these Longshoremen and the Chelsea ILA Local (No. 791) have a continuing interest in these particular piers despite the present absence of cargo operations.

Read that statement over and over. It tells what is wrong in this country. Think of that, 450 longshoremen with the power to be paid for a full year's work without ever lifting a finger since 1968. Cut everywhere else; Mr. Small Businessman, Mr. Farmer, Mrs. Housewife, Mr. and Mrs. Retired Citizen, but do not touch a penny of our high wages. Then we wonder why American shipping lines are going out of business, must be subsidized or are on their last leg. Note the part of the Government statement which indicates:

> The GAI is paid from a special fund endowed by assessments on various shipping lines according to a formula based upon tonnages and man hours.

This means, in effect, the consumer pays. Where are the phony consumer advocates when it comes to these thousands of hidden costs we could document in everything you buy, use or touch?

The featherbedding list could go on and on. When will the public wake up? Certainly not with this Congress which bows and scrapes every time labor leaders wiggle a finger. Certainly not with the Naders and their antibusiness crusaders. It is fitting to note that the labor leaders were able to convince—what a joke, convince—the liberal Democrats in Congress to exempt labor from their so-called Consumer Protection Agency which would put its bureaucratic clutches on everyone else.

HOUSE OF REPRESENTATIVES—*Thursday, April 8, 1976*

The House met at 12 o'clock noon.

Rev. Gary M. Bradley, minister, Landmark Church of Christ, Montgomery, Ala., offered the following prayer:

Our Father, we acknowledge that You are all that is fair and good and just, and that the affairs of men are under Your watchful direction.

We are so grateful for Your guidance during the 200 years of our Nation's existence, and we pray that we shall face the future remembering that Your righteousness exalts any nation.

We pray now for Your blessings to be upon every Member of this legislative body as decisions are made today which shall affect so many. May each Representative realize that You are aware of every motive and intent of the hearts of men and face his responsibilities of today knowing that You are in control and that we are all dependent upon Your direction. In the name of Jesus the Christ.

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 agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1941) entitled "An Act to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to a joint resolution of the Senate of the following title:

S.J. Res. 101. Joint resolution to authorize the President to issue a proclamation desig-

nating that week in November which includes Thanksgiving Day as "National Family Week."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 867. An act to amend the act entitled "An Act to establish the Fire Island National Seashore, and for other purposes," approved September 11, 1964 (78 Stat. 928); and

S. 885. An act to designate certain lands in the Shenandoah National Park, Va., as wilderness.

REV. GARY M. BRADLEY

(Mrs. LLOYD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD of Tennessee. Mr. Speaker, it is a great personal honor for me today to introduce a longtime friend and a great Christian, Gary M. Bradley, who just offered our inspiring prayer.

Gary Bradley is presently serving as minister of the Landmark Church of Christ in Montgomery, Ala. He is also vice president, in charge of public relations, of the Alabama Christian School of Religion in Montgomery, and is chaplain of the Alabama State Troopers, Montgomery district.

Prior to his move to Montgomery in 1974, Mr. Bradley served as minister of the Brainerd Church of Christ in Chattanooga, Tenn., of which I am a member. He has been a great source of spiritual strength to my family and me.

Gary Bradley has preached in many areas of our country and the world, including the Caribbean and Israel. He is a man of great ability.

Mr. Bradley's wife, Bobbie, and his three children, Gary, Jr., Philip, and Cindy are also with us today.

My thanks to Gary Bradley for being with us and providing us with words of inspiration as we undertake our responsibilities as Members of Congress.

SECRETARY KISSINGER IS OFF BASE ON THE HOUSE INVESTIGATION OF DANIEL SCHORR

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, it is not hard to understand why the Secretary of State has problems on Capitol Hill. He does not just blast his opponents; he even blasts his friends if he thinks it will give him another favorable press notice.

The press this morning reported that Dr. Kissinger had had an exchange with Daniel Schorr at the gridiron dinner last Saturday in the presence of his attorney, Mr. Califano, and they had both authorized the release of the remark that Dr. Kissinger thinks that Daniel Schorr got a "bum rap" and that the Congress is investigating the wrong man.

Well, the Secretary is way off base. The facts are that Daniel Schorr, whom Mr. Kissinger is now defending, got the Pike report at a time when the committee expected that it was going to be released within a few days. Schorr used it on his own show. This is an old Washington PR trick and nobody faults Daniel Schorr for it.

But then the House of Representatives, surprisingly, overrode both the Pike committee and its own leadership and voted 2 to 1 not to release the Pike report until all classified material it contained—which Kissinger himself had loudly deplored—had been removed.

At this point Schorr—who had gotten the original material under very different circumstances—took it on himself to defy Congress and peddle the material for permanent printing in cold type where every detailed, damaging item becomes twice as damaging as on TV.

This is the issue which the House had four times voted, by increasingly greater majorities, to look into. I find it hard to believe the Secretary of State cannot grasp this simple distinction. Or is his comment perhaps part of some new administration campaign to woo the press, regardless of what happens to our classified information?

RESIGNATIONS AS MEMBERS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, COMMITTEE ON AGRICULTURE, AND COMMITTEE ON THE DISTRICT OF COLUMBIA

The SPEAKER laid before the House the following resignations from the Committee on Interstate and Foreign Commerce, the Committee on Agriculture, and the Committee on the District of Columbia:

WASHINGTON, D.C.,
April 7, 1976.

HON. CARL ALBERT,
Speaker of the House of Representatives, U.S. Capitol Building, Washington, D.C.

SIR: I hereby tender my resignation from the Committee on Interstate and Foreign Commerce effective April 8, 1976.

Very truly yours,

BILL HEFNER,
Member of Congress.

WASHINGTON, D.C.,
April 7, 1976.

HON. CARL ALBERT,
Speaker of the U.S. House of Representatives, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: I hereby tender my resignation from the Committee on Agriculture effective April 7, 1976.

Sincerely,

NORMAN D'AMOURS,
Member of Congress.

WASHINGTON, D.C.,
April 7, 1976.

HON. CARL ALBERT,
Speaker of the House, Democratic Steering and Policy Committee, Longworth House Office Building, Washington, D.C.

DEAR MR. SPEAKER: I hereby tender my resignation from the Committee on the District of Columbia effective April 8, 1976.

With best wishes,

JAMES J. FLORIO,
Member of Congress.

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

ELECTION AS MEMBERS OF COMMITTEE ON BANKING, CURRENCY AND HOUSING, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, AND COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1136) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1136

Resolved, That Norman E. D'Amours of New Hampshire and Stanley N. Lundine of New York be, and they are hereby, elected members of the Committee on Banking, Currency and Housing; and,

That James J. Florio of New Jersey be, and is hereby, elected a member of the Committee on Interior and Insular Affairs; and

That W. G. (Bill) Hefner of North Carolina be, and is hereby, elected a member of the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. HAGEDORN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 180]

Anderson, Ill.	Harsha	Richmond
Andrews, N.C.	Hawkins	Riegle
AuCoin	Hayes, Ind.	Roberts
Badillo	Hébert	Rodino
Barrett	Heckler, Mass.	Roe
Bell	Heinz	Rooney
Biaggi	Henderson	Rousselot
Burke, Mass.	Hinshaw	Sarbanes
Byron	Holland	Scheuer
Cederberg	Jenrette	Shuster
Chappell	Johnson, Pa.	Smith, Nebr.
Chisholm	Jones, Ala.	Spellman
Clay	Karth	Stanton,
Conlan	Litton	James V.
Conyers	McCloskey	Steiger, Ariz.
Daniels, N.J.	Macdonald	Stephens
de la Garza	Mann	Talcott
Dellums	Mathis	Teague
Diggs	Metcalfe	Udall
Downing, Va.	Mollohan	Ullman
Esch	Moss	Vigorito
Eshleman	Nix	White
Flynt	O'Hara	Wilson, Tex.
Fraser	Pattison, N.Y.	Winn
Gibbons	Pepper	Young, Tex.
Gilman	Quillen	
Gude	Rees	

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL MIDNIGHT, FRIDAY, APRIL 9, 1976, TO FILE PRIVILEGED REPORT ON FIRST CONCURRENT RESOLUTION ON BUDGET FOR 1977

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the Committee on

the Budget may have until midnight, Friday, April 9, 1976, to file a privileged report on the first concurrent resolution on the budget for fiscal year 1977.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DEFENSE AUTHORIZATION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1134 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1134

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a very straightforward rule, providing for 4 hours of general debate, reading the bill by titles. The bill is entirely open to amendment. I know of no controversy whatsoever on the rule. I assume that there will be the usual controversy on the bill, or at least some controversy.

Mr. Speaker, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1134 provides for 4 hours of general debate on H.R. 12438, authorizing appropriations during fiscal year 1977 for military procurement; research and development; strengths for active-duty military components, reserve forces and civilian personnel of the Defense Establishment; military training student loads; and for other purposes. There are no waivers of points of order.

H.R. 12438 authorizes $23,066,500,000 for major weapons procurement and $10,359,843,000 for research and development, test and evaluation by the Department of Defense.

An increase is authorized for the total active-duty military strength amounting to 2,101,904. In addition, the reserve strength and civilian personnel strength of the Department of Defense are increased 898,200 and 1,040,981, respectively.

The Committee on Armed Services extensively restructured the shipbuilding program of the U.S. Navy. A net increase of four ships is authorized. This is the result of deleting five ships requested by the administration and adding nine ships not requested.

H.R. 12438 will cost a total of $33,426,343,000 for fiscal year 1977.

Mr. Speaker, the administration supports passage of this bill in a prompt fashion. However, objection has been raised regarding multibillion-dollar changes made by the Committee on Armed Services. These include alterations in the Presidential recommendations for ship construction pending the completion of a major study of future naval requirements now underway.

Another objection is the failure to include Presidential discretion in section 702 allowing for inflation or lack of it in the Presidential Department of Defense budget request.

Finally, the committee has extended, without administration approval, *unjustifiable subsidies for commissary employees.*

Mr. Speaker, although H.R. 12438 may contain some controversial points, the rule is unencumbered with waivers and should be adopted so we can debate the bill during the allotted time.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12438, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 2 hours, and the gentleman from California (Mr. BOB WILSON) will be recognized for 2 hours.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, on behalf of the Committee on Armed Services, I bring to the floor of the House today H.R. 12438, the defense authorization bill for fiscal year 1977. This bill provides $33.4 billion for the authorization of the procurement of major weapons systems, plus all military research, development, test and evaluation in the year that begins next October 1. The bill also authorizes the Active and Reserve personnel strength of the military services, as well as the civilian strength of the Department of Defense. It also authorizes the level of student training for the Active and Reserve components for fiscal year 1977. Finally, in its general provisions, the bill carries a number of important requirements and limitations governing the operation of the Department of Defense.

There are two aspects of this bill, which I believe, at the outset, are worthy of special note:

The fact that for the first time in many years the bill is higher than the amount requested by the administration. We have added $698.6 million.

The committee approved the bill by a vote of 34 to 1. This is the closest to unanimity that we have been in many years.

Understandably, there are some additional views. Some members object to a number of programs authorized, and one member objects that the bill is not large enough and leaves serious defense deficiencies. Some such disagreements would appear to be inevitable in a bill as large and varied as this, which provides over $33 billion for thousands of procurement and research and development programs. In our wide-ranging hearings we had opinions varying from witnesses who suggested cutting many billions out of defense spending to Yale Law School Prof. Eugene V. Rostow, former Under Secretary of State for Political Affairs, who, speaking for the Coalition for a Democratic Majority, recommended increasing defense spending by $20 billion. But in the final analysis, only one member voted against the bill in committee.

Mr. Chairman, the committee report on the legislation is available to all Members of the House (H. Rept. 94-967). It is 169 pages long and is, I believe, the most comprehensive report ever issued by the committee. I will not, therefore, take extensive time today to discuss all of the many actions which the committee has taken in the legislation. Let me just highlight some major differences between the committee bill, H.R. 12438, and the proposal submitted by the adminis-

tration in the three principal areas of procurement, R.D.T. & E., and personnel.

Procurement: We added $2.2 billion in some areas of ship construction and reduced $1.1 billion in other areas, for a net increase of $1,088 million in shipbuilding. In so doing, we have recommended a restructuring of the Navy program, adding nine ships and removing five for a net increase of four ships. We have also added two conversions. What the committee is saying to the Congress is that the course followed by the administration was not adequate to provide us a Navy of the size and capability necessary to carry out our foreign policy in the decade of the 1980's and beyond. We have tried to reorient the program to do so.

The ship construction portion of the bill will be discussed in more detail by the distinguished gentleman from Florida (Mr. BENNETT).

Research, development, test and evaluation: We made reductions totaling $547.2 million but provided a $49 million emergency fund for key needs of the research and development program, for a net reduction of $498.2 million. In the emergency fund we have specifically directed expenditures to develop a replacement for the Sparrow missile, a better engine for the F–14 aircraft, conversion of the U.S.S. *Long Beach* into a platform for the Aegis and the refurbishing of the U.S.S. *Belknap*. As you will see in our report, we have also taken numerous steps to improve the results of our military research and development effort.

Personnel: We rejected a proposed reduction of 50,000 in the Naval Reserve, authorizing a Selected Naval Reserve strength of 102,000, roughly the same as in fiscal year 1976. We added 5,000 to the civilian strength to allow adequate personnel for key maintenance functions of the Air Force. We added 181 civilians and 904 active duty personnel to the Navy to provide necessary support for the higher Naval Reserve strength authorized.

With the changes made by the committee, the authorized strength of the Department of Defense would be as follows: Active duty personnel, 2,102,000; Reserve personnel, 898,200; and civilian personnel, 1,040,181. The active duty strength authorized incorporates a 12,000 increase in the Navy and a 16,000 reduction in the Air Force, as compared with fiscal year 1976. The civilian strength authorized, even after the additions made by the committee, is still approximately 20,000 less than the civilian strength of the Department in fiscal year 1976.

Committee actions concerning personnel programs will be discussed in more detail by the distinguished gentleman from Michigan (Mr. NEDZI), the chairman of the Personnel Subcommittee.

COMMITTEE PROCEDURE

This year the committee has conducted unusually thorough hearings into the overall defense program despite the requirements for early completion of our work in line with the new House budgetary procedures. In order to comply with the requirements of the Budget Committee in the Budget and Impoundment Control Act of 1974, and to meet the request of the Budget Committee for recommendations on the overall defense program by March 15, the committee commenced its hearings in December of last year. At that time we conducted an intensive review on "Overall National Security Programs and Related Budget Requirement." This hearing is available as House Armed Services Document No. 94–32, and covers 586 pages.

On the 27th of January, immediately after the submission of the President's budget, the committee commenced detailed hearings on the legislation and all related defense requirements. In all, there were 13 days of full committee hearings and 33 days of hearings by the Subcommittees on Research and Development, Seapower, and Personnel.

In addition to completing action on the authorization bill, the committee filed a report with the Budget Committee on March 15, which carried recommendations covering the full range of programs making up the national defense function category of the budget resolution.

EXTENSION OF AUTHORIZATION REQUIREMENT

As I indicated, I believe the committee review this year was more effective than in the past and I believe we can thank the new budgetary procedures of the House for bringing about this more intensive study.

Members should understand that the bill, in line with present law, provides authorization for appropriations only for research and development, and for the portion of procurement which covers major weapons systems—aircraft, missiles, tanks, ships, torpedoes, and other weapons. While the bill authorizes the strength limitations for the military departments, it does not authorize specific dollar amounts for personnel. Likewise, the appropriations categories of operation and maintenance, which govern the day-to-day running of the Defense Establishment, retired pay, and a wide range of procurements totaling more than $7 billion, are not presently subject to authorization.

The committee has amended the bill to provide the requirement for annual authorization for all military functions administered by the DOD. By extending the requirement to those areas which have not had the benefit of full authorization review, the committee believes that it is working in tune with the new budgetary procedures of the House. Extending authorization to all phases of the defense program will allow for more effective recommendations to the Budget Committee each year, and at the same time, will allow uniform procedures governing both the authorization and the appropriations bills for the Defense Department.

COMMISSARIES

The committee has added a general provision to the bill, section 708, which would express the sense of Congress that no changes be made in financial support for military commissary stores, and that any move to eliminate this financial support is considered neither justified, nor desirable.

This committee proposal is consistent with the action of the Congress last year, which rejected by a substantial margin the plan to reduce commissary support. However, the administration has not gotten the message, and again this year has proposed a gradual elimination of the subsidy for the commissaries. The administration proposal, as approved, would reduce by $94 million the appropriation required for operation and maintenance. Our committee has recommended, in its report to the Budget Committee, that this $94 million be made available for the commissary stores.

RESERVE CENTERS

The committee has also added a provision under section 711, which would express the sense of Congress that the Secretary of the Navy take no action to close Naval Reserve training centers until the authorization and appropriations bills establishing the strength of the civilian reserve have been enacted into law. Since the committee has rejected the proposed reduction of 50,000 in the Naval Reserve, the committee believes that moves to close Reserve training centers, as recently initiated by the Navy Department, are inappropriate until such time as the Congress has made the decision on the strength of the Naval Reserves.

CHALLENGE TO THE CONGRESS

For years we have been hearing criticism that the Congress should not be a rubberstamp for the Department of Defense, that it should take its rightful part in the determination of national policy. The bill we bring before you today challenges the Congress to do that. Our changes are far more significant than the difference in dollar totals would indicate.

The committee recommendations on ships' construction, for example, offers a fundamental challenge to the premise on which the administration's program is based. The Congress, if it follows the committee recommendation, will be saying to the administration, and to the world, that we are going to have a larger and more capable Navy in the future than we have now, or than the administration envisions. I venture to say that this one recommendation, the restructuring of our naval program, if adopted, will have far more effect on our foreign policy in the remaining years of the twentieth century than any other action taken in this body this year.

If people challenge this program on the basis that the administration did not ask for it, remember that the same people have often criticized the Congress for not showing enough initiative in dealing with administration programs.

BASIS FOR DETERMINING DEFENSE REQUIREMENTS

Mr. Chairman, we have heard recently a good deal of discussion about comparative expenditures on military budgets between the United States and the Soviet Union. I want you to understand that the committee did not make its decision on the basis of any dollar comparisons with the Soviets. The level of our defense requirements is not dictated by dollar comparisons.

It is not dictated by the desire to create jobs.

It is not dictated by a comparison with

the level of spending on domestic programs.

It is not dictated by what we think would be nice to have.

And, lastly, it is not dictated by what anyone presumes are the intentions of the Soviets.

It is dictated by the actual military capability the Soviets have, regardless of how much it costs them. It is dictated by the size and kind of forces that we might have to defend against in a crisis. It is dictated by conditions in the world over which we do not often have control.

It was only a few years ago that we had Members standing on the floor of the House telling us that if we cut our defense spending dramatically, the Sovits would cut theirs. I notice we don't hear much of that sort of rhetoric anymore.

It was only a few years ago that we frequently heard speeches on the floor of the House that we had to refrain from developing new missile or aircraft systems as they might endanger a SALT agreement.

It was not so long ago we heard people telling us we should avoid developing follow-on weapons systems as they might endanger détente.

Well, we have a SALT agreement. But it has not stopped the Soviets from developing new and more powerful follow-on strategic systems.

And I notice that the word "détente" is not even used anymore in some quarters.

Our committee has considered carefully the tremendous Soviet advances in strategic systems and in naval power, as well as modernization of conventional air and ground forces.

We have considered the analysis of non-Department of Defense experts who tell us the military balance is shifting steadily in favor of the Soviet Union.

We have considered the statements by both administration and congressional budgetary experts that personnel costs have taken a disproportionate share of the defense budget. In our report to the Budget Committee we have concurred in some stringent limitations on personnel expenditures.

We have considered that the world, by any measure, is a less safe place today than it was even a year ago.

Taking into account all of these considerations, our committee is recommending a bill which we think is necessary to provide deterrence today—but even more importantly, to provide a capability for deterrence in the decades ahead.

I urge the Members of the House to support the bill.

Mr. BOB WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleague from Illinois, the chairman, has already reviewed the highlights of this year's defense authorization bill; and since the chairmen and ranking minority members of the various subcommittees will go into considerable depth on specific aspects of it, I see little purpose in plowing the same ground. Therefore, I am going to devote my time to an overview of how this bill fits into the total picture of national defense.

Obviously, if there is to be a meaningful debate on this bill, it cannot be discussed as though it had been spawned in a vacuum. It is an integral part of the total defense package, and it can be understood only in terms of its relationship to the whole. As a result of the recent markup sessions by the budget committees, it now appears that the defense function budget for fiscal year 1977 will be in the neighborhood of $112 to $113 billion. That is a mind-boggling figure even by the inflated standards of today. But the first step toward a balanced perspective is to recognize the difference between a "Defense Function budget" and a "defense budget." The functional budget is an accounting device rather than a measure of the cost of defense. It includes, for example, almost $9.5 billion to fund the retirement and foreign military assistance programs. And whatever you may think about these two programs, the fact is that they buy not $1 worth of defense.

To talk realistically about the cost of defense then, we must look not at the functional budget which was designed for the convenience of accountants, but rather at that portion of it which actually pays for defense. In ballpark figures, the true cost of defense this year will be in the neighborhood of $103 billion, not $113 billion.

The bill you are considering today would provide budget authority in the amount of $33.4 billion, or slightly less than a third of the defense budget. The balance of the total—nearly $70 billion—goes primarily to buy manpower and the goods and services that are necessary to feed, clothe, house, and maintain it. That figure alone is staggering to the imagination. But we must bear in mind that its size was largely influenced by our conscious decision to abandon the draft in favor of a more costly all-volunteer force. Furthermore, the inflationary spiral of recent years has left its mark on defense as surely as it has on our individual pocketbooks. On the subject of manpower costs, it should be noted that the administration has made some very hard choices this year in an attempt to bring them under control, choices which warrant careful consideration on our part regardless of their political implications.

But after all is said and done, what does that other $70 billion-plus buy? The answer is simple. It buys people. Not tools, but people. And a brief glance backward at the wars which have been fought in the 20th century leads to one inescapable conclusion: What has separated America's fighting forces from those of the rest of the world—what has made them better than any adversary on the battlefield—is the quality of the tools we have given them. The superiority of American weaponry has been our shield.

And that—very simply—is what this bill is all about. This $33.4 billion is the portion of the budget which goes to buy the tools of the trade. And if we fail to provide the proper tools then everything else we appropriate for defense will be wasted. What we will have purchased for that other $70 billion will be a well-paid, well-fed cavalry force to fight a space-age war. Make no mistake about that.

Just as Marshal Pilsudski's splendid cavalry was no match for Hitler's tanks on the battlefields of Poland in 1939, the magnificent weapons systems which served us so well in the 1950's and 1960's will not be a match in the 1980's for the sophisticated weaponry now beginning to come into the Soviet arsenal.

Unfortunately, this fundamental point is going to be difficult to keep in sight after the debate begins. The water is going to be muddied by a host of arguments that will attempt, variously, to depict this bill as a basket of goodies for greedy defense contractors who have corrupted the Defense Establishment; as a heartless alternative that will condemn millions of Americans to continued unemployment; as the forerunner of a new cold war; or as the product of a well-orchestrated scare campaign by sinister forces within the Pentagon.

The truth of the matter is that no one is trying to panic this House into approval of a needlessly high defense package by conjuring up images of a Soviet bogeyman. None of the sponsors of this bill subscribes to the theory that defense should be allotted some arbitrary percentage of the gross national product. Nor was anyone on the Armed Services Committee seduced by the complex, but one-sided argument that Russia is outspending us in terms of dollars on defense. We recognize that manpower is relatively cheaper and technology relatively more expensive in the Soviet system, and that in terms of rubles we may well be outspending them.

But we also recognize that this is 1976, not 1946. The old stereotype of Russia as a technologically backward giant no longer holds water. The technological capability of the Soviet Union today is every bit as good as ours in many critical areas and they are fast learning the secret of how to apply it. In the years ahead we are going to be confronted by both quantity and quality.

This is not to suggest that the Russians are coming or that this bill represents America's last chance to avoid following Britain down the road to second-class power status. What our committee does suggest, however, is that any reasoned response to the threat faced by this country should take account of some hard realities. From the overwhelming superiority of yesterday, America has been reduced to something called "rough equivalence" today. This means that while we have now fallen behind in some areas, we still retain enough of a margin of superiority in others to leave us in a position of approximate military parity with the Soviet Union. But if the trend of recent years is allowed to continue, the parity of today will inevitably deteriorate into inferiority tomorrow.

It is not my purpose to debate whether or not our past decisions about priorities were wise. Monday morning quarterbacking is a waste of time because what is done is done. What I want to focus on is the question of what we are going to do now. Are we going to continue the trend of deterioration in the face of a massive

expansion in Soviet military capacity? That is the real issue before us, not how many dollars or rubles each side is spending.

As we address this issue, I hope we can manage to do so without allowing the discussion to deteriorate into a sophisticated war game in which everybody makes his own independent judgment about the nature of the threat and starts moving divisions around the board. It is not the function of this House to speculate about what the Russians intend to do with the forces at their command. Our job is simply to determine how we are going to respond to what they are doing. And what are they doing? They are expanding their forces on land, at sea, and in the air. That expansion is far out of proportion to what is required to compensate for the threat posed by China along their Asian frontier. It cannot be dismissed that easily. The simple fact we must recognize here today is that the major thrust of the Soviet military buildup is oriented toward the West.

Let me stress that point again. It is our job to determine how America is going to respond to external threats. The administration recommends, but the final decision rests with the Congress. And thus, the ultimate responsibility for what happens lies upon us. I submit, then, that the practice we have fallen into in recent years of merely scrubbing the defense budget is no substitute for congressional leadership. We cannot discharge our responsibility to the people in so negative a fashion. If the administration proposals err on the side of "too little" or if they err in specific applications, then we must forge ahead and provide the proper direction. And that is the key to understanding this bill. Particularly in the critical area of ship construction, this bill is a reflection of the renewed willingness of the Congress to provide that kind of direction.

For 25 years, Congress has been committed to the principle that the Navy of the future should be nuclear powered. And for nearly all of those 25 years, a succession of administrations has been seeking ways to circumvent the will of this body on that issue. Why? Not because of the views of the Navy. Our adversary has been the czars of OMB who have had the final say in those administrations. Over the opposition of naval experts, they have decreed that initial cost rather than capability or life-cycle cost is to be the determining factor in ship propulsion systems.

That should not come as any surprise. OMB does not have to fight in the ships that are funded, they have only to account for them. And they have approached the issue with an accountant's mentality—looking at it not in terms of defense, but rather as a budgeting exercise.

Let me just summarize a few of the highlights of this 25-year battle. From the very beginning, Congress has had to fight these tunnel-visioned cost accountants every inch of the way. We literally had to force the construction of the first nuclear-powered carrier, the *Enterprise*. We had to force construction of the Polaris-class nuclear ballistic missile submarines. We had to force construction of the new class of nuclear attack submarines. Finally, Congress tried to put an end to the debate with the passage of Public Law 93-365 which mandated nuclear power for Naval strike forces unless the President determined that such action was not in the national interest. Our mistake was in leaving that loophole. Today we are still hearing the same tired old argument out of OMB that we should be buying more conventionally powered ships because of their cheaper initial cost. In the world of the accountant, apparently, initial cost is everything. According to their reasoning, if you can buy four oil-fired ships for the price of three nukes, then the answer is to opt for quantity regardless of any difference in offensive capability or life-cycle cost.

Frankly, I will never cease to be amazed by this kind of mental myopia. I could understand it if we were playing monopoly and the issue was whether to buy Boardwalk or St. Charles Avenue. But the future of American seapower is not a game of monopoly. In fact, it is not a game at all. If sheer numbers of ships were the issue, we could resolve it tomorrow without going to the expense of building new oil-fired ships. All we have to do is direct the Navy to recommission 40 or 50 of the World War II vintage ships we have mothballed down on the James River.

If, however, we resist the invitation to engage in a numbers game by debating the cheapest means of maintaining a 400 or 500 or 600 ship navy, this House must inevitably reaffirm its long-standing commitment to nuclear propulsion for our strike forces.

By any standard other than initial cost, nuclear power is clearly superior to oil. If we add the cost of 11 million barrels of oil that are replaced by a nuclear reactor, we find even the initial cost differential between nuclear and conventional carriers to be rather minimal. And the difference in their life cycle costs is negligible.

If we look at offensive capability, there just is not any meaningful comparison. Nuclear ships with 15 years of fuel in their cores can go wherever they want at whatever speed may be required. They do not have to worry about running out of fuel before a lumbering tanker catches up with them. Submarines can remain submerged indefinitely instead of having to surface to recharge their batteries. Nor do we have to worry about a navy that can be held hostage to its oil supply. Oil embargoes such as we encountered a few years ago that would bring a conventionally powered fleet to a standstill would have no effect on a nuclear navy. Our own dwindling oil supplies would not influence its ability to perform its mission. In short, the reaffirmation of our commitment to a nuclear navy does much more than expand its capability. In the long run, it insures its survival.

H.R. 12438, in my judgment, represents the determination of the 94th Congress, in the broadest sense, to reassert its leadership in a positive fashion. To those who will say that we cannot afford such ambitious new programs at this time, I can only say that, as the euphoria surrounding détente continues to evaporate, it is increasingly clear that we must do what is necessary, not what is comfortable or easy.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, it is very disconcerting to look about and see so few Members here on this matter that is so crucial to the defense of this country. I have been deluged as have most of the Members, if not all of the Members, within the past week by people who are opposed to this weapons system or opposed to that weapons system, and really when the committee gets to the floor and we look around and we find that outside the committee members themselves there are not more than 10 people who are not connected with the committee who are present here, it really is disconcerting because this is a matter of utmost importance, of really life and death to our country.

The fiscal year 1977 authorization for research and development, testing and evaluation proposed by this bill, which amounts to $10,359,000,000 represents in actual dollars the highest amount approved by the committee. While this $10.4 billion is nearly $1 billion more than fiscal year 1976, out of this $1 billion, three-quarters of a billion is going to be eaten up by inflation which takes away from the real purchasing power.

In terms of buying power, the fiscal year 1977 R.D.T. & E. budget request is with the exception of the last 2 years the only increase in the last 10 years. Escalation does not play favorites nor limit its reach to milk, bread, eggs, and other everyday essentials. Quite the contrary: Escalation or inflation eats at the very vitals of our defense establishment also.

I, as well as other Members of the committee, were and remain concerned over this level of expenditure.

The primary question, Mr. Chairman, is not whether we can afford a $10.4 billion budget for research and development. The question is, can we afford not to spend this amount? By every index, by all the indices that we are familiar with or can be made familiar with, which we are told by our intelligence communities, or whatever, the Russians are spending a great deal more than this every year on their R. & D. efforts. In the area of research and development, we have an area that is unique, because it is the long lag time or lead time to build up to the capability that is important. It is not something that we can start or stop readily. It is not something we can turn a tap and say we will do it now and end it here, because we have to get teams of experts together. We have to get teams of educated people. We have to build an expertise. We have to build a backlog of educated, competent, technical people. We cannot say, "Well, I will start now and then I will do it for 5 years," and automatically we are up to 100 percent and go for 5 years and quit all of a sudden.

So for this reason, when we say that we are, and we have been given any number of graphs to show what our technological development is and how it is

proceeding compared to the Soviets, we find that we are going down, while they are going up. Regardless of whether we are comparing rubles or dollars, the total effort of the two countries indicates that we are falling far behind. If we do not do something about it in the next few years, like in the next 2 years, it is possible that we will fall irrevocably behind.

Now, one of the things that we have heard about, and we have gotten a big influx of mail about in the last 2 weeks, has to do with the B–1 bomber. Now, I have never been in the corner of the B–1 bomber per se. I recognize the fact that we need a manned bomber. I recognize the fact that the B–52, the average age of which is over 20 years, that they have been modified, they have been up-dated.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. BOB WILSON. Mr. Chairman, I yield the gentleman an additional 5 minutes.

Mr. DICKINSON. Mr. Chairman, I recognize that the B–52 in the G and H versions, have added new engines, added new capabilities, but still there is a very finite limit which we can identify in the life of the B–52 bomber. It will not be a viable defense weapon into the 1980's and 1990's and the year 2000.

We have to make a conscious decision, are we going to have a follow-on bomber or are we not?

At some point we must make a decision. First, do we need a follow-on bomber. Second, what is the follow-on bomber to be?

I think at this point we have reached the stage where we have to make a decision. In talking to the Air Force, they have reached a decision. They have tried every possible scenario from a stretch of the F–111, to any number of alternatives, and they have concluded that in numbers of weapons carried, in range of weapons, in numbers of refueling aircraft to accommodate the fleet, that this is the way to go. So if we decide that the B–1 bomber is the alternative, if there is to be a follow-on bomber, then we have to make a decision whether we will have a follow-on bomber.

Mr. Chairman, in this procurement bill we will make a conscious decision whether we will have a bomber and whether it will be the B–1. I think this is the gut issue, the conclusive issue, as far as this B–1 is concerned, because once we make that decision, then we should go forward and say, "Yes, we have made the decision. Now we must build it in the most economical way and at a rate that will save money."

Mr. Chairman, last year in conference we asked for $77 million in long leadtime items. We were told by the OMB, by the Department of Defense, by the Air Force, that if they did not get the $77 million in long leadtime items, that if we ever made the procurement decision, the failure to appropriate the $77 million in long leadtime items would cost approximately $800 million in a stretch-out program. This is the same as just throwing money out the window. We do not buy anything for it; we do not get anything for it. All we get is a reduced capability.

So, we have got to reach a point at some phase in our deliberations—and it just happens to be now—we have got to decide, yes, we will have one; or no, we will not have one. Yes, this is the weapons system; or no, it is not the weapons system, but it is a go or no go decision. Once we make the decision, as we are asked to do now, then we should let the Department of Defense and those who are concerned with these matters decide what is the most economical way of procuring them. If by cutting down on the rate, cutting down on the amount of procurement, cutting down on the numbers per year, we just stretch out the program, then we are costing unnecessary billions of dollars of taxpayers' money and getting absolutely nothing for it.

So, we are asking in this bill that the Members approve a procurement of this weapons system along with other weapons systems, and I would hope very sincerely, Mr. Chairman and members of the Committee, that we recognize what we are doing here and that we make a conscious decision that is a go or no go decision.

If we decide to go, then we will not throttle back and choke the program down to the point of unnecessary cost. This is true of the Trident; this is true of the XM; this is true of the B–1 and this is true of the A–10. I hope we will make a conscious decision to work for it and produce it at the most economical rate of whatever we decide to procure.

Mr. Chairman, the fiscal year 1977 authorization for R.D.T. & E. proposed in this bill, $10,359,843 represents, in actual dollars, the highest amount approved by the committee.

While this $10.4 billion is nearly $1 billion more than the fiscal year 1976 appropriation, out of this $1 billion increase, nearly three quarters of a billion will be consumed by inflation alone.

In terms of buying the fiscal year 1977 R.D.T. & E. request is, with the exception of fiscal years 1975 and 1976, lower than that of any year during the past decade. Escalation, my friends, doesn't play favorites or limit its reach to milk, bread, eggs and other everyday essentials. Quite to the contrary, inflation is very democratic and extends into defense procurement and research and development.

I, as well as other members of the committee, were and remain concerned over this level of expenditure. However, the primary question, Mr. Chairman, is not whether we can afford a $10.4 billion budget for R.D.T. & E. but whether at this time we can afford not to have this budget.

This year the committee devoted a great deal of time looking at the Soviet threat from both the military and technology points of view. The committee's conclusion is that the current state of affairs is no good. From the technological viewpoint, it is clear that the Soviets now have a decisive advantage over us in high-pressure physics, welding, titanium fabrication, high frequency radio wave propagation, among many other areas of R. & D. The situation is even more critical when we consider that they are translating their technology into operational deployable products in much less time than the United States. As an example, we are all waiting to get the Harpoon missile into the fleet. There is little question about the fact that the Harpoon is a good missile and will enhance our Navy's capability. But, stop and think for a moment. It flies slower than the Soviet Styx missile—delivers half the warhead that the Styx carries—and, the Styx missile has been in the Soviet inventory for well over 10 years.

There are other technological trends that show the momentum is in favor of the Soviet Union. For example:

United States R. & D. in 1961 accounted for nearly three-quarters of the free world R. & D. Eight years later it was down to two-thirds. While I do not have the exact figure for 1976, I know it is down from two-thirds.

Between 1970 and 1974 Soviet engineers engaged in R. & D. increased by 25 percent while the U.S. R. & D. force decreased by 5 percent. They have over 200,000 more engineers engaged in R. & D. than we do.

From the military point of view, it should be obvious to all of us that something is radically wrong. Let us look at our naval force and our naval capacity. Ten years ago we were unquestionably the strongest naval power in existence. We were not worried about keeping the sealanes open. If it became necessary to do so, it was just a matter of deploying some ships to accomplish the mission. This year, however, the CNO came before the committee and stated his belief "that the U.S. Navy will be able to control any ocean or major connecting sea unless directly opposed by the Soviet Navy."

In the face of these facts—and I do mean that these are verifiable facts—I keep hearing from the press about different Members of Congress who state that we lead the Soviets in every conceivable aspect of military defense. I am at a loss as to where they are getting the data that supports this allegation. Just take a trip over to the Mediterranean, for example, and look at our Navy and the Soviet Navy. You will find that they outnumber us in terms of surface combatant ships—that practically every fighting ship they have is equipped with cruise missile capability while not a single ship in our fleet has this capability—and, that their overall fleet is far more dynamic and much younger than ours. Now, how anyone could derive U.S. superiority out of this particular situation is well beyond my comprehension.

Mr. Chairman, it is clear to me and clear to the Armed Services Committee that something is wrong about our defense posture and that the Congress must intervene and reverse these dangerous and alarming trends. We have got to reassess the entire R. & D. program to insure that we are developing the right technology while exploring methods to get this technology to our operational forces as quickly as possible.

Our bill, if approved, will allow the Department of Defense an authorization of nearly $10.4 billion. This amount will not be enough to reverse the trend that shows the Soviets clearly moving ahead

of us in terms of technology and military capability.

You might ask: Why did the committee reduce the Department's request for R.D.T. & E. by nearly one-half billion?

The answer is rather straightforward—just spending money for defense does not guarantee a strong defensive posture. The money must be properly directed toward programs that will strengthen our national security. The committee simply did not believe that many of the programs in the fiscal year 1977 request satisfy this criterion. We examined several thousand programs. We terminated some 20 programs because we did not feel that they were worth the investment in terms of what they would deliver. Many of the programs terminated required only $1 or $2 million for fiscal year 1977. Many, however, represented the start of programs that would require investments of several hundred million dollars over the next 3 or 4 years.

It should be rather clear, Mr. Chairman, that the committee did not panic over the deficiencies in our military posture and proceed to rubberstamp the Department's request. This year we strongly reasserted our right to review and legislate.

In a few areas the committee was able to identify specific needs and funds. We established an emergency fund and directed the Department of Defense to get on with certain programs that we feel are essential. We directed them to call it quits on the Sparrow missile—a missile that has not performed as required for the past 25 years. We told the Department to get on with putting Aegis on the *Long Beach*. Aegis is the Navy's newest antiair warfare weapon system for ships. During the past year the Department has not been enthusiastic about the committee's direction to proceed with this program. But this ship as it stands today has an antiquated command and control system, a one-of-a-kind Terrier missile system, old and out-of-production surveillance radars. It does, however, have nuclear propulsion. It is just criminal to have this platform sailing the oceans with limited firepower and a lack of capability. The Department wants to defer putting Aegis on the *Long Beach* for at least 8 more years. The committee believes that it should be done now. We also provided funds for the development required to rebuild the *Belknap* and reengine the F-14.

Mr. Chairman, I pointed out there are some programs that the committee believes this Nation does not need. I must emphasize my strong support of the programs included in the bill. I know there will be a number of amendments offered to delete the funds requested for many of the Department's programs. I urge you and my colleagues here today to consider the facts in assessing the amendments offered. We spent nearly 3 months reviewing and discussing the fiscal year 1977 program with representatives from the Department of Defense, nonprofit independent organizations, the academic community and other interested groups. Their arguments ranged from cutting the defense budget by $35 billion to increasing our military expenditures by $20 billion. Somewhere between these extremes the committee established what it believes is the necessary and sufficient program to get our Nation's defense back on track.

I submit that the committee has done its homework. As an example, the committee spent 2½ days this year reviewing every conceivable aspect of our strategic R. & D. programs. We reviewed the requirements, the Soviet threat, where we stand today vis-a-vis the Soviet Union, the strategic weapons we are developing, the concept of Triad, the alternatives that are available to us—we looked at it all. After two and one-half days of intensive review it is clear that:

Improved accuracy is not, let me repeat, is not being pursued simply to give us a first-strike capability.

We are not developing maneuvering reentry vehicles or MARV to give us a first-strike capability.

Since the SALT agreement the Soviets have advanced their technology and capability more than we have.

This year's strategic budget of a little over $2 billion will do little more than maintain the existing gaps between the Soviet-United States strategic capabilities.

The strategic programs, as presented by the Department, must be continued and are essential to our national security.

I ask you to give these facts strong consideration, if or when an amendment to delete our counterforce programs is offered.

Before closing, I would like to spend a minute or two discussing the B-1 program. There are a number of misconceptions that should be cleared up before we launch into the general discussion on whether or not we should go ahead with the B-1.

Recently there has been a great deal of discussion about the supposedly more practical alternatives to the B-1. I would like to point out that we spent a great deal of time during the past three months looking at some of these so-called practical alternatives. I will be very direct about it—there are none. The Brookings Institution, as many of you know, recently published a study relating to the need for the B-1 bomber. Several of my distinguished colleagues here today have done quite an extensive analysis of this study and conclude that it grossly misleads the American public. With all due respect to the authors, they overestimate the cost of the B-1 and severely underestimate the cost of their cruise missile alternatives. It is a bit puzzling to me that people are taken in by the results of this study. I would like to point out that the Brookings cruise missile alternative would cost as much as the B-1 unit flyaway cost and provide nowhere near the capability of the B-1. Let me add just one final point on the subject.

One Senator in a recent issue of the CONGRESSIONAL RECORD raises his "fundamental question" of "whether we want to divert so many arms dollars into a system which has such a minimal military role." My fundamental question is, does he really believe—do you people here today really believe—that the B-1 has a minimal military role? Ponder that question after I tell you that over half of our throw-weight today is carried by our strategic bombers.

Mr. Chairman, the R. & D. Subcommittee of the House Armed Services Committee started its review of this year's defense bill back in December 1975. As I stated earlier, we took testimony from just about everybody who expressed a concern over defense spending and could be scheduled to appear before our Committee. Some came in with pretty good arguments, others came in with arguments that were just down-right naive. The latter group told us, for example, how U.S. defense spending should not be gaged on what the Soviets are doing. This is extremely difficult for me to comprehend since I always thought that the Soviets are the major threat. I am sure that many of the arguments that were presented by these people will form a basis for some of the amendments offered here today. I urge you to consider any amendment in the face of the facts and not just a series of rhetorical statements.

I will ask you to ask yourself in every instance whether the proposed amendment, if adopted, will compromise in any way our ability to deter or to ensure our national security. Consider for example, whether it is wise to call a halt to our offensive strategic programs when it is a well-known fact that the Soviets are advancing virtually every conceivable aspect of their offensive strategic capabilities.

Mr. Chairman. I know that there are many demands being placed upon our economy and that a $10.4 billion expenditure for defense R. & D. is of grave concern, but I ask you to share with me today that awareness that defense R. & D. is one area where second best will not suffice. We no longer have the ability to concurrently wage a war and develop technology as we did during World War II. We must keep pace and that is why I ask your support for the R. & D. portion of this bill.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, sometimes in the activities of Government things have to be stated very bluntly, otherwise the country may suffer a severe danger or an unhealable wound. This is the circumstance of America today with regard to its national defense structure and particularly with regard to Navy ships.

There is an unquestioned need for more and better Navy ships if our country is to be adequately defended.

The Seapower Subcommittee, of which I am chairman, concluded hearings late in December of 1974 on the situation in the U.S. Navy. In them, the official statement of the Deputy Secretary of Defense, Hon. William P. Clements, is to be found at page 8 of the December 31, 1974, report, No. 93-831, HASC. The Deputy Secretary of Defense at that time outlined a program requesting 38 new major ships for the Navy in fiscal year 1977 and he said (page 10 of the report):

We are not adequately planning or providing for the level of U.S. seapower that may be essential to this nation's security.

Adm. James Holloway, then and still CNO, said during those hearings that we should have at least 35 new ships a year if we were going to do what we should with regard to the national security of our country (page 12 of the report).

The Department of Defense came to Congress this year with a request not for 38, not for 35 new ships, but for only 16 new ships, and some of them rather insignificant new ships.

Faced with this situation, the Seapower Subcommittee, and the full House Armed Services Committee, brought forth an improved program, hopefully for your approval, which adds $2.241 billion in new ships over the Department of Defense official request. This sum is reduced by $1.153 billion for a net increase of $1.088 billion by reductions in funding that need not be done this year. They do not represent a subtraction from the actual add-on of $2.241 billion dollars of new ships.

For the House Armed Services Committee's proposal is that instead of just 16 new ships, there will be 22 new ships, including 20 brandnew ships and 2 conversions of a major nature. The House Armed Services Committee measure provides two Trident submarines as against one; four nuclear attack submarines as against three; three strike cruisers, londlead items, as against one; one nuclear carrier, long lead items, as against starting this next year.

In addition, the House Armed Services Committee proposal provides for four destroyers (DD 963's); one oiler; one submarine tender; one destroyer tender; a conversion of the cruiser *Long Beach* to put the Aegis system on it, a new anti-air warfare system with far more protection for the fleet than now exists; and finally, a rebuilding of the cruiser *Belknap*, which was seriously injured in an accident, which restructuring will give it far more capability than it ever had before.

For the Trident submarine, the attack submarine, the strike cruiser and the aircraft carrier, the committee has stayed with nuclear power. This was a deliberate choice. There were many reasons.

First. With the cores which come with the ships now lasting about 15 years, the obvious advantage is that the ships do not need any fuel oil logistics. They can go where they are needed, get the job done and return without having to worry about whether there is enough fuel left in reserve. When needed, they can steam at flank speed without having to slow down to conserve fuel or to wait for any accompanying oiler.

Second. With the unlimited endurance, the nuclear powered ships can be called upon for unexpected duties without having to stop to get refueled first. These duties can be humanitarian, as when the *Enterprise* went to help the island of Malagasy after it had been devastated by a heavy storm. The duties can be military, enabling the ships to respond to a new crisis without waiting for fuel or oilers. During operations, the nuclear powered ships can sail around a bad storm without concern about using too much fuel. They can continue pursuit of a nuclear powered submarine without having to break the trail and go to an oiler for refueling.

Third. The nuclear powered ships are dependable. Because of the care with which they are designed, built, and operated, and because of the extra attention which is paid to the recruiting, selection, training and supervision of crews for these ships, they have a record of dependability far beyond anything else in the fleet. To date not one nuclear powered ship has had to abort its mission because of the failure of its nuclear propulsion.

Fourth. The nuclear-powered ships are clean. Since these ships do not burn any fuel, there are no stack gases. Stack gases, particularly those heavy in sulfur, when combined with salt water can become extremely corrosive. This can affect the ship, but more importantly it can affect the airplanes on the ship. Corrosion control is exercised with great care on the carriers powered by fuel oil. It is a time consuming, tedious chore, which is not as necessary on a nuclear-powered carrier.

Fifth. Nuclear-powered ships are more effective. During the studies made to determine the proper number of escorts for carriers, it was found that the usual six ship escort when conventionally powered could be replaced by four nuclear-powered ships, and achieve better protection. In part, this is due to the fact that the nuclear-powered ships have more extensive armament on them. In part, again, there is no need for nuclear-powered escorts to go off the screen to get fuel—and they can perform unexpected responsibilities, such as going out to find a plane which has been lost at sea, without having to stop to be refueled first.

Sixth. The United States imports over 40 percent of its crude oil now—and that rate is rising by 4 to 5 percent a year. We are already heavily dependent upon other countries for our oil. This dependence is unacceptable for our military ships. During the Middle East crisis our oil from foreign nations was suddenly cut off, leaving our fighting ships in far waters in precarious conditions. We cannot have our strike forces in our Navy ever caught in that situation again. Nuclear fuel is plentiful here and in nearby friendly countries. Cores can be fabricated in advance and stored until needed. If, as many believe our own oil will run out by the year 2000, we must have a Navy we can still rely on. Nuclear power is the only alternative.

Seventh. Nuclear power saves lives. Without the necessity of slowing down to accommodate an oiler, there is less occasion for a nuclear-powered ship to become a target for submarine attack. Without the need for refueling, that very dangerous practice can be minimized. It is not easy to steam alongside an oiler and manage the oil lines. That hazardous activity can be minimized. Nuclear power enhances the ability of the Navy to get to trouble, handle it successfully and leave, and that is what the Navy is all about. We often hear that nuclear power is too expensive, but that is just not so. The President has just proposed a mixed program of eight conventionally powered ships plus two nuclear-powered ships, with an alternative for seven nuclear-powered ships.

The committee looked at the pricing of the first nuclear and first non-nuclear-powered ships. When the non-nuclear ships were given the same military characteristics as the nuclear ship, and when the price of buying, storing and delivering 3,000,000 barrels of oil—equivalent energy of the 15-year-life cores purchased in the price of the nuclear ships—were considered the nuclear ship was only $122 million more expensive, out of a total cost of $1.4 billion.

The Navy has just figured the price a different way. On the basis of the life time cycle costs of a task force, the all nuclear task force with equal capability but fewer ships, costs 2 percent less than the non-nuclear task force. This is the first time this has been shown. If the nuclear task force is enlarged to include more equal numbers of ships, the over all cost only rises to 4 percent of the lifetime costs. These differences lead us to want the nuclear-powered Navy.

All of these reasons led the Seapower Subcommittee and the Armed Services Committee to continue its reliance on nuclear power—and it found its reasons even more important today than in the past. By these actions, the committee believes that the Navy now will have the capability for "prompt and sustained combat."

To emphasize the situation, the President had requested a $32.7 billion procurement bill, and the committee authorized a $33.4 billion procurement bill, nearly a $700 million increase. This is the first time in years that the committee has recommended more than the President's request. This action reflects the committee's deep conviction about Soviet strategic and naval weapons building and the necessity for our country to do something about it. The House Seapower Subcommittee unanimously approved the increases in the ship-building budget and then the full Armed Services Committee endorsed the recommendation by an overwhelming margin.

Unfortunately, many of the committee's recommendations for our national defense would face a rough road if Congress were not willing to look at the actual facts, listen to this debate and act from the best interests of the country, regardless of any pressures to the contrary.

There are reasons given by people in the public for not adequately defending our country. Some people simply do not believe that the Russians are overtaking us and endangering our freedom. Any detailed study, and there have been many made lately, should convince the doubters that we are in fact falling behind. Secretary of Defense Rumsfeld said on March 29, 1976:

> Over the past 10 to 15 years, the United States has moved from (a military position of) superiority to one of rough equivalency. If the trend continues, we could move out of this position of rough equivalency. We're not No. 1 if you look at basic military capacity.

Then there are some that say that more defense dollars should be shifted to social programs. The trouble with this

attitude is that social improvements cannot be achieved or maintained when the country is endangered militarily.

Some say that they want to protest waste in the Pentagon and think the best way to do this is to lop off funds at random from defense programs. While I favor cutting every ounce of fat out of the Pentagon's budget, I do not favor unduly severe cuts in the vital defense programs. At present, defense programs are carefully scrutinized by both the Congress and a number of executive agencies. I wish I could be assured that social and welfare programs receive the same sort of scrutiny.

The public also includes a few unilateral disarmament "freaks," too. Anyone who takes this point of view should be questioned both as to his sanity and as to his realism. There are certainly not very many people in the United States who feel that unilaterally drawing down our arms or unilaterally retaining the status quo in our arms situation is a wise procedure. Today, despotic nations, dedicated to the overthrow of free governments throughout the world, are arming to the teeth. Unilateral disarmament by us would be suicidal. Mutual disarmament is another matter indeed and I am proud that I had a substantial part to play in bringing about the creation of the Arms Control Agency, which is active in research and presentations in that field. Unilateral disarmament, on the other hand, is utter idiocy.

Not only did the extensive hearings of the Seapower Committee bring information to the Congress and to the country that we need to rebuild our Navy at the rate of about 35 ships a year, but new information has come in since that time which underlines this necessity. In bringing forth a new book entitled, "The Soviet Navy Today," Capt. John Moore, a former Deputy Chief of British Naval Intelligence and editor of the authoritative Janes Fighting Ships said this year:

> The Soviet Navy is the most potent in fire power of any fleet that ever existed. American seamanship is almost certainly better but Russia can menace all sea lanes of the world and can do so all the more easily if she were to gain bases in Angola.

So the Chief of Naval Operations this year brought to our committee his personal judgment in a program of a classified amount, a larger sum than the House Armed Services Committee subcommittee allowed. This was after he testified to the full Armed Services Committee that—

> In the broadest sense, for the foreseeable future, we believe that the U.S. Navy will be able to control any ocean or major connecting sea *unless directly opposed by the Soviet Navy*. (Emphasis added.)

All of this is in the face of an official request by the Department of Defense for only 16 ships, many of them very inadequate ships. To the contrary, your House Armed Services Committee is offering you a program of 22 ships, not the 35 that was suggested earlier, but much more than the 16 requested this year. These ships that the House Armed Services Committee is asking you to provide are better ships than the ships in the request officially made. They are ships which the Department of Defense and the Navy desire to build, but just put in an earlier timeframe. We urge that under the present circumstances, we should go forward with a program that will be understood both here and abroad, to bring the U.S. Navy back to the position of being able to maintain the security of our country in a credible manner.

I know that it will be urged that the Department of Defense has recommended as a minimum prudent risk, a shipbuilding program of only 16 ships for the year. This in the face of speeches made by people high in the administration, including the President, to the effect that they are not satisfied, and that this need for a new ship program depends on prompt action. That is one of the reasons why the Seapower Subcommittee came to grips with this matter in such deep detail and has brought to you the program which we have before you today. We should not, we cannot, wait for bureaucratic reports and we have the sincere and factual testimony from the highest level within the Defense Department which we feel requires what we are recommending in this bill. Your enthusiastic support is solicited.

I have not spoken of the total number of ships that the Navy should have. In 1970. Adm. Thomas Moorer, then Chief of Naval Operations, told the Seapower Subcommittee that there should be about 800 ships in the fleet at 1980. After that, Adm. Elmo Zumwalt, when he was Chief of Naval Operations, said that there should be about 770 ships in the fleet about 1980. Deputy Secretary of Defense Clements recall these testimonies in his statement to our subcommittee in December of 1974 when he added that the then current Joint Chiefs of Staff estimate called for an 800-ship Navy to support our current national defense strategy. The President, Secretary of Defense Donald Rumsfeld, Secretary of the Navy William Middendorf, and the Chief of Naval Operations James Holloway, have all recently indicated that we are heading for too small a fleet.

The ships that the Seapower Subcommittee has advanced to the fiscal year 1977 budget are primarily the powerful heavy hitting ships. We believe, as Admiral Moorer testified in 1971:

> I have always felt it is better in peacetime to build the more complex combat systems. . . . Therefore, it would be better in peacetime to build those systems which require the most time to build.

This is especially why we increased the long leadtime items for two more nuclear-powered strike cruisers which will be the most powerful surface combat ship in any navy except for the carrier. This is why we advanced the long leadtime items for the next *Nimitz* class aircraft carrier. This is why we restored the Trident construction schedule to its former schedule. This is why we added a fourth nuclear-powered attack submarine.

We wanted to be sure that these ships, our most powerful ones, which would remain in the fleet well into the next century would not be dependent upon oil for their operation—especially since there are already forecasts that the United States will run out of crude oil of its own by the year 2,000. We cannot forget the lesson of the Middle East crisis when our overseas fuel oil supplies were denied to our fleet. This position is especially important when it is remembered that our Navy has a "forward strategy" requiring it to operate off of other continents—whereas the Soviet Navy merely has to operate around close by land areas—although it has in fact enlarged its operations worldwide.

We have included in our program some of the cheaper ships. We have kept in four patrol frigates—FFG-7's, until we can study their situation further for a year. We have included four DD 963's, in the program since they are more redundant and capable than the FFG's. There is considerable sentiment among the subcommittee members that the United States should concentrate on building the larger, more expensive ships, while our allies should build the ships for antisubmarine warfare and convoy duty. This position makes a lot of sense.

The important point to remember is that our Navy has been allowed to slip to a precarious state. If we are to remain a free nation celebrating yet more than our 200th year of freedom, we must have a Navy second to none. No one has denied that it will cost money. The Navy is badly in need of new ships. Let us get on with the business of rebuilding the Navy immediately, and take the expense out of other domestic programs or assess the necessary taxes to provide for our security as well as our domestic desires.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. I thank the gentleman for yielding.

Mr. Chairman, I serve on the subcommittee chaired by the gentleman from Florida (Mr. BENNETT). I think our work this year in revising upward the building aims of the Navy was good work. I would like to express publicly my admiration for my chairman for his leadership in this undertaking.

Mr. BENNETT. Mr. Chairman, I thank the gentleman very much for his remarks.

I want to thank him and all of the members of my subcommittee for their hard work on this legislation. Never since I have been in Congress have we had the constant attention that we have had this year on the Subcommittee on Seapower. In fact, no member ever missed very many sessions. That is very unlike what we have had in previous years. There were times in previous years when I was sitting there alone. But this year all of the members did an excellent job in attending and took part in writing up the bill, particularly the gentleman from Virginia.

I want now to pay a compliment to the gentleman from Georgia (Mr. MCDONALD), who will also make some remarks following mine.

Mr. MCDONALD of Georgia. Mr. Chairman, it is essential that all Members of Congress fully understand the significance to the future of the U.S.

Navy of action concerning the shipbuilding program recommended by the Armed Services Committee in the bill now before us. I fully support the entire shipbuilding program recommended by the committee, but I want to stress one particular aspect. This bill marks a turning point in the changeover from oil-fired propulsion to nuclear propulsion for our new construction major surface warships.

The 1975 Department of Defense Appropriation Authorization Act, Public Law 93-365, established by law:

> The policy of the United States of America to modernize the strike forces of the United States Navy by the construction of nuclear powered major combatant vessels. . . .

That is the policy we need and the Armed Services Committee recommendations on the fiscal year 1977 program are consistent with that policy. The increasing dependence of the United States on foreign sources of oil, and the rapidly expanding Soviet naval threat, make it obvious that our first line naval strike forces must be given nuclear propulsion in order to free them from complete dependence on a highly vulnerable oil supply line.

The major issue this year is whether the ships to be provided the Navy's new Aegis fleet air defense system will be nuclear powered. The Department of Defense proposes that over the next 5 years we build eight non-nuclear ships and only two nuclear ships with Aegis. This is ridiculous.

The Aegis air defense system is being built for use in the areas of highest air threat. Now I ask you: How in the world can we expect tankers and oilers to survive in the areas of highest threat? And if they do not, what good will the conventional Aegis ships be? We are building nuclear-powered aircraft carriers in order to free them from the propulsion fuel umbilical cord in areas of high threat. What sense would it make to build conventional Aegis ships to provide for their air defense?

The Office of Management and Budget pontificates that we should build only two nuclear strike cruisers because they cost more than the conventional ships. They say that on the average the nuclear strike cruisers will cost twice as much as the conventional ships, and that on a life cycle basis the nuclear strike cruisers will cost two-thirds more per ship. But they fail to point out that the antisurface missile systems on the nuclear strike cruiser can cover 25 times the area covered by the antisurface missiles on the conventional ship, and that the 8-inch gun on the nuclear-strike cruiser can cover about 9 times the area covered by the 5-inch guns on the conventional ship. They fail to point out that the nuclear-strike cruiser is far less vulnerable, since it has over 1,000 tons of fragmentation armor and other improved passive defense features designed into the ship that are not included in the conventional ship. The nuclear-strike cruiser is not only nuclear powered, with reactor cores which will provide for 15 years of operation, but it has far superior military characteristics other than nuclear propulsion.

After very careful consideration of all the facts, the committee concluded that all the Aegis ships built for the strike forces should be nuclear powered. I concur with that conclusion. It is time that the analysts in the Department of Defense and Office of Management and Budget faced up to reality as to the need for nuclear-powered warships for our first line naval strike forces.

The committee recognizes the urgent need to get the Aegis fleet air defense system into the fleet as soon as possible, and therefore has recommended that the present nuclear cruiser *Long Beach* be converted into an Aegis-equipped nuclear strike cruiser as soon as possible; $371 million is included in the committee's recommendations for this year in order to get started on this.

In order to get started on a continuing program of nuclear-strike cruisers, the committee increased the advance procurement funds authorized for this class of ships from the $170 million requested to the $302 million identified in the President's alternative all-nuclear Aegis ship program.

I strongly endorse these proposed actions on Aegis ships.

The Department of Defense proposes to build two nuclear-powered aircraft carriers over the next 5 years. However, they have deferred advance procurement funds for the first carrier, the CVN-71, from fiscal year 1977 to fiscal year 1978. The committee learned that this delay would increase the cost of the ship a minimum of $178 million, delay the ship at least a year, and possibly jeopardize the industrial base for building the ship and its major components. If we are going to build additional *Nimitz* class aircraft carriers, and I personally think we must, then it would be absurd to force the taxpayers to absorb the unnecessary increase in cost that would be caused by delay. Therefore, I strongly endorse the committee's recommendation that $350 million be provided in fiscal year 1977 for advance procurement of the nuclear propulsion plant components to keep the carrier on its original schedule. Even with this funding, there will be a 4-year gap between the delivery of the *Carl Vinson*, CVN-70, now under construction, and the next nuclear carrier, CVN-71.

I believe that anyone who studies the committee's hearing record will come to the same conclusion on these matters the committee has. The only argument the Defense Department makes against nuclear power for surface warships is that they are "too expensive." The argument can be made that all new weapons are too expensive when the costs are compared to the obsolete weapons they replace. Apparently when the Department of Defense decides it wants something, expense is not the criterion. When Congress wants it, it becomes too expensive.

Aside from the statements about expense, no other reasoned or technical judgment has ever been given by the Department of Defense to justify its stand against nuclear surface warships. They simply fail to address the issue of the vulnerability of our propulsion fuel supply lines upon which the nonnuclear ships are totally dependent. Those who do recommend nuclear powered ships give reasoned arguments—arguments which have never been specifically rebutted. In this regard I would like to call the attention of every Member of this House to Admiral Rickover's statement concerning nuclear warships which Senator PASTORE introduced in the CONGRESSIONAL RECORD on April 5, 1976, starting on page 9351. That statement summarizes the entire issue and presents the facts.

The impression given to the public is that the Defense Department has reached its conclusion against nuclear warships based on scientific analysis. Despite the many specific requests to the Department made by the committee, they have not presented to the Congress a scientific analysis supporting their position. We must therefore conclude that their position will not stand the test of objective scrutiny.

Based on detailed study and appraisal of the military effectiveness and the cost of nuclear powered and conventional warships, and careful consideration of experience of naval forces in combat, a former Chief of Naval Operations, Adm. David L. McDonald—a fellow Georgian and, I am proud to say, a distant relative—stated:

> The endurance, tactical flexibility, and greater freedom from logistic support of nuclear warships will give the United States an unequaled naval striking force. Our new warships, which the Navy will be operating into the 21st Century, should be provided with the most modern propulsion plants available. To do less is to degrade effectiveness with grave implications for national security.

The determination of overall force levels and the precise number of ships to be built in the next several years will no doubt be the subject of continuing debate. However, with the problem of declining size of the U.S. Navy, and the rapidly expanding Soviet naval threat staring us in the face; and the exemplary performance of the two nuclear carriers and the five nuclear cruisers now in the fleet; and the increasing dependence of our Nation on a tenuous supply of foreign oil—it is clear that construction of the nuclear ships for which funds are provided in this bill is a minimum requirement. We should proceed forthwith without delay. Under no circumstances should we hold up while more studies are made.

The determination by Congress to insist that nuclear propulsion be provided for major combatants built for our naval strike forces will go far toward determining the strength and flexibility of U.S. seapower for decades to come. I urge all my colleagues to support it. Our survival may ultimately depend on it.

Mr. BOB WILSON. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, as a member of the Armed Services Committee, I have long held a special interest in, and concern for, the security of our Nation. As ranking member of the Seapower Subcommittee, a good portion of my interest and concern is directed to the status of our fleet.

In these committee capacities, I have had the occasion to participate in one of

the most thorough examinations of our Navy that has been attempted in Congress for many years. Under the able chairmanship of the gentleman from Florida (Mr. BENNETT) we conducted 5 days of hearings on naval readiness, and the general conditions of the fleet. Twelve more days of hearings were organized to study the fiscal year 1977 shipbuilding program.

In addition to the subcommittee hearings, the full Armed Services Committee under the leadership of chairman PRICE studied the Navy very carefully. The full committee schedule included 10 days of hearings on overall defense programs, and a few additional days were taken to concentrate on the posture of the Navy.

What we learned in the course of this extensive study caused us great concern, Mr. Chairman, and it is our purpose today to convey this concern to our colleagues.

If the people of the United States were to discover that their representatives in Congress were unilaterally disarming this Nation in the face of growing enemy power, I believe that they would revolt—if not in the streets, certainly at the polls this fall. Yet, so far as our naval forces are concerned at least, that is exactly what Congress has allowed to happen since 1968. Everything that we heard in committee indicates this dangerous trend, and a recent Library of Congress study confirms it.

For example, consider the following statistics:

In 1968, we had 975 ships in the active fleet.

At the end of fiscal year 1974, there were 511 ships.

At the end of fiscal year 1975, 496 ships.

By the end of this fiscal year, our fleet will be comprised of only 487 ships of all types.

If this trend continues, we will clearly be down to less than 400 ships by 1985; meanwhile, our enemies are putting great emphasis on their own naval strength, undergoing a building program of unprecedented proportions.

The committee report details further disturbing facts and figures. For example, my colleagues should especially note the lack of sufficient numbers of modern surface combatants capable of standing off the Soviet fleet in areas where our interests are greatest.

It is not my purpose to convince you that our Navy is a hopeless "basket case." It is not. But our Navy is seriously ailing when compared with that of the Soviet Union, and it is badly in need of a transfusion. It is the opinion of your committee that the shipbuilding program which we are recommending for fiscal year 1977 will provide this new blood—the vital first step needed to rebuild our Navy.

Since the process of deterioration has taken place over a number of years, we obviously cannot reverse that process in a single year. For this reason, our program is not the final answer. It is not a "get well" program. At the same time, we want to emphasize that it is much better than the proposal which was first presented to the committee. It represents our best judgment, after many days of study and consideration, of what the Congress should adopt this year.

Generally, the committee program is aimed at increasing the number of ships, which we must do, while assuring that the Navy of the future will have greatly improved offensive and defensive capabilities. It is important to note, however, that the bill before us now would not improve the Navy's readiness until the 1980's. For example, even the two Fleet Oilers which we are seeking will not be delivered to the Navy until 1981; and it will be 1984 before the replacement carrier will join the fleet.

Also, I want to point out that the ships which we recommend this year represent a long-term investment. They will be on the oceans of the world, defending our country's interests, for 35 to 40 years after they are delivered—long after the last tank and aircraft authorized by this bill will have been cut up for scrap.

So, what we do today affects not only the security of our constituents and their children, but also that of their children's children. For this reason especially, Mr. Chairman, I am dismayed by the shallowness of the arguments being made with respect to the future of our Navy.

Some of the proposals, which amount to unilateral disarmament in relative terms, are made by those who have no access to the facts which are available to Members of Congress. These can be excused as being naive. The dangerous arguments, however, are those which are made by individuals who are in a position to know better—often for some imagined political gain.

For example, there is the theory which holds that the Navy can handle its global responsibilities with greater numbers of smaller, cheaper craft. These people argue that carriers, air defense vessels, and other capital ships are only "targets" anyway, and have no value in our Navy. They would build enough "small cheap ships" that we could lose many of them in a confrontation with the Soviet Union, and still have some left. I call this the "disposable Navy theory."

Another approach is to build no new ships at all—that we just repair the ships that we now have. This can be appropriately referred to as the "vanishing Navy theory."

As my knowledgeable colleagues know well, these simplistic arguments ignore the basic and critical missions of the U.S. Navy. These are:

The ability to operate successfully against potential enemies while far from home waters, and to do so without land bases if necessary.

The ability of the ships of the fleet to reinforce, support, and protect each other, while together they accomplish the goal assigned to the entire force.

They also ignore the realities of the Soviet threat, as it now exists, and will exist in the future. Without balanced countering forces, Soviet submarine, surface, and naval air forces will be able to convert the Atlantic and Pacific into high threat areas where small unsophisticated ships cannot survive.

Furthermore, the adoption of a long-range naval policy dependent upon small, incapable ships,would compel the adoption of a "Fortress America" policy. In such a case, our commerce with other nations over the sea lanes would be at the sufferance of the Soviets.

In short, capitulation to either of these theories would be, over the long run, a sure route to naval suicide.

I do not believe that the people of this country want a Navy which is second only to the Russians. I do not believe that the people want a Navy which has achieved rough parity with the Russians. I believe that our constituents want nothing less than unquestioned American superiority the next time that our Navy must confront the Russians at sea.

Mr. Chairman, as I suggested earlier, the fiscal year1977 shipbuilding program recommended by our committee is not the program submitted in the President's budget. We were dissatisfied with the adequacy of the program as submitted. I understand the administration has doubts, also, It was therefore incumbent upon us to present an authorization which fulfills our constitutional responsibilities.

The Constitution of the United States assigns to the Congress alone, the author and responsibility for the status of our Navy. In article I, section 8, we are clearly mandated "to provide and maintain a Navy." We interpret that responsibility to mean the maintenance of a Navy which can effectively support our foreign policy, protect our commerce, and maintain open sea lanes. It is our responsibility and ours alone. It is a grave responsibility, and one for which the price of failure is the loss of all we hold dear.

Thus, our bill adds $2.2 billion in real shipbuilding program value, which represents an increase of $1.1 billion in the amount requested. As our report explains, the advancement of ships from later in the DOD 5-year shipbuilding plan, will result in cost reductions totaling $547 million by avoiding future inflation. Also, we recommend 4 new ships and 2 ship conversions in addition to the 16-ship program presented to us.

Most importantly, the committee did not merely acquiesce in the types of ships requested. Instead, we have restructured the program with the result that more ships with greater firepower, range, and antisubmarine warfare capability will be provided.

So, Mr. Chairman, in arriving at the fiscal 1977 shipbuilding program, your committee was very mindful of its duty under this Constitution. In altering the President's proposal, we are properly exercising one of the key powers granted us by those who framed our form of government. Under our system, the President is Commander in Chief of the military, but only Congress can raise and maintain armed forces. The President can seek war, but only Congress can declare it. It is a carefully crafted system which prevents unchecked military power from being joined in one person.

The Congesss shall have the power . . . to provide and maintain a Navy.

Mr. Chairman, the power is ours alone, and the duty is ours alone. Only we can provide a strong national defense. We

cannot shift the responsibility—or the blame.

So let this be the year when we send a message to the Kremlin, and to those we represent back home. The Congress of the United States recognizes a dangerous trend, but we will turn it around. We will build and maintain a Navy which is representative of America; second to none in the world. Let that message begin here, in the people's House, with an overwhelming vote for this bill.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, titles III through VI of H.R. 12438 respectively deal with active duty, reserve, and civilian personnel strengths in the Department of Defense, as well as the military student training loads for fiscal year 1977.

Although there are some minor adjustments in the other titles, the major changes recommended by the committee to the Department of Defense's request appear in title IV affecting the average strength of the Naval Reserve, and in title V in the authorized end strength for civilian personnel.

In title III, the committee recommends end strengths for active forces as follows:

Army	790,000
Navy	544,904
Marine Corps	196,000
Air Force	571,000

The total of 2,102,000 active duty personnel is approximately 4,000 less than were authorized last year.

With the exception of the Navy, these strengths are those requested by the Department of Defense. The committee's recommendation for the Navy is 904 higher than the requested figure. This minor increase results directly from the committee's recommendation to increase the Naval Reserve. This number represents necessary active duty personnel utilized in support of Naval Reserve training who were not included in the request because of the proposed major reductions in Naval Reserve strength.

Within these totals are a variety of program actions which will provide a leaner, more capable military force in fiscal year 1977.

In the overall composition of the force, the number of officers as compared to enlisted personnel will decrease. A more obscure—but nonetheless important—improvement will occur as the number of personnel who are in a student, transient, patient, or prisoner status are decreased. Personnel of this character are a necessary fact of life in any organization of this size; however, by their very nature these individuals are in an unproductive capacity. In fiscal year 1977, through a series of management actions, the number of personnel in these categories at any one time will be reduced by more than 13,000.

The Army will complete its 16-division force in 1977 as two active brigades are activated. The Army has converted 16,000 personnel assigned to support functions for use with the new brigades and to improve the manning of existing combat structure. With these adjustments, the Army's combat-to-support ratio in fiscal year 1977 will be 54/46 as compared to a ratio of 41/59 in 1972.

Another action of importance for fiscal year 1977 will be the deployment of an adidtional combat brigade to Europe. Two years ago, in the defense authorization bill, the Congress told the Department of Defense to provide more combat capability for our forces in Europe, and accomplish it by removing excess support personnel. The deployment of this brigade is one response to that guidance and will be accomplished with no increase in our troop strength overseas.

The Navy will increase in authorized strength by 12,000 in fiscal year 1977. This increase results from a net increase of nine ships in commission and an increased manning in current ships. Although there is an aggregate increase in personnel, there were also actions taken reducing the number of personnel in support positions.

The Air Force active duty strength shrinks by approximately 16,000 in fiscal year 1977. The majority of these reductions result from support efficiencies. At the same time, the Air Force will activate an F–5F fighter training squadron and increase the crew ratios in fighter squadrons.

Title IV authorizes average strength floors for the Selected Reserve of each of the Reserve components. The committee recommendations are:

Army National Guard	390,000
Army Reserve	215,700
Naval Reserve	102,000
Marine Corps Reserve	33,500
Air National Guard	93,300
Air Force Reserve	52,000
Coast Guard Reserve	11,700

With one exception, these are the strengths requested by the Department of Defense in fiscal year 1977 by the administration.

The strength requested for the Naval Reserve in fiscal year 1977 by the administration was 52,000. That compares to the 106,000 strength authorized and the 102,000 strength funded last year. The committee examined the basis for this request in some detail and found it unconvincing at best. The Navy has recently completed a comprehensive study of its Selected Reserve which, for the first time I can remember, begins to make sense in terms of actual requirements. This study indicates a requirement for a Selected Reserve strength of 102,000 and our testimony indicates that the officials responsible for manpower requirements in the Department of Defense support the validity of this study.

Title V establishes an end strength for civilian personnel in the Department of Defense. The strength recommended by the committee—1,040,981—is a ceiling for the Department of Defense as a whole and allows the Secretary of Defense to allocate these numbers among the services. The administration request was for an authorization of 1,035,800 which was 28,600 lower than was authorized last year. The committee's recommendation increases the request by 5,181 in two separate actions. One hundred and eighty-one of this increase results from the action with respect to the Naval Reserve and is attributable to civilian positions necessary for the training of reservists restored by the committee recommendation. The remaining 5,000 of this increase is recommended specifically for the Air Force. The Air Force has borne the brunt for the Department of Defense of personnel reductions in recent years. The committee was concerned that these reductions have adversely affected aircraft maintenance and supply activities. The increase is an attempt to offset these potential deficiencies.

As a matter of note, the committee was presented with substantial evidence of a serious amount of grade creep among civilian personnel in the Department of Defense. We will watch this carefully and have put the Department on notice that a solution to this problem must be forthcoming.

Title VI establishes the military training student loads for fiscal year 1977. These loads, which are in the bill before you, are as follows:

Army	81,429
Navy	66,914
Marine Corps	25,501
Air Force	49,610
Army National Guard	12,804
Army Reserve	7,023
Naval Reserve	1,257
Marine Corps	3,562
Air National Guard	2,232
Air Force Reserve	1,107

Mr. Chairman, the committee spent a great deal of time examining in detail the manpower program for the Department of Defense in fiscal year 1977. While I have made some attempt to outline some of the highlights, which the committee report amplifies, I think it might be beneficial to give you my personal impression of the program. For more than 13 years, I have been subjected to each of the DOD presentations on manpower requirements. They are not the stuff of which novels are written. However, for the first time, in the last few years, it now appears that management has a firm control of the system and is making sense of the entire structure. I will not suggest that this proposal represents optimal productivity within the structure, but an effective effort is being made and, under the circumstances, I believe it is in the Nation's best interest to support this program and the efficiencies it promises for the future.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CHARLES H. WILSON).

(Mr. CHARLES H. WILSON of California asked and was given permission to revise and extend his remarks.)

Mr. CHARLES H. WILSON of California. Mr. Chairman, fiscal year 1977 is the year for the decision of the B–1 manned strategic bomber. We will be making a decision within the next day or two that will have a tremendous effect on our national security throughout the remainder of this 20th century.

I would be naive if I did not think that there is opposition to this program. I would be even more naive if I did not know that a great deal of the opposition to the B–1 is based on misconceptions

and misinformation. I believe that all of us here today are entitled to have the facts about the B-1.

Let us set aside the question of the B-1 for a moment and address the continued need for a strategic bomber. There are, as you know, three legs to our Triad. The ICBM and submarine legs have both their advantages and inherent deficiencies. The Soviet improved accuracy programs, for example, will make our ICBM silos vulnerable during the early 1980 time frame.

The strategic bomber complements the other two legs of the Triad and provides this country with the flexible response that is required to insure our national security. Today over half our megatonnage is carried by our strategic bomber force. For those of you who question the need for a strategic bomber, I ask you not to lose sight of the fact that during the past decade, the Soviets have forged ahead with the development and deployment of their Backfire bomber.

The need for a manned strategic bomber should be readily apparent to each and every one of us today. Even the most vociferous critics of the B-1 recognize the need for a strategic bomber. The highly publicized Brookings Institute study opposes the B-1, yet, recognizes and acknowledges the importance of the strategic bomber in the first sentence, of the first chapter, of the publication.

The point of departure relates to which bomber we carry into the 1980 and 1990 time frame. Some people advocate the continued use or modernization of the B-52. Others contend that a stretched version of the FB-111 would satisfy our bomber needs throughout the course of this century.

To me the need for the B-1 is as readily apparent as the need for a strategic bomber. The B-1 is the most effective weapon system from both the cost and performance points of view based on the known 1980 threat and scenario.

I am not alone in this contention. The GAO—perhaps the biggest critic of the Department of Defense—concluded in their B-1 study of last year that this aircraft is the most cost effective weapon system to meet the threat postulated by the intelligence community and the Department of Defense.

I would like to summarize here today the reasons why this is the case. Let me take the alternatives one by one.

First, the B-52 as it is currently configured. This strategic bomber has served us in an exemplary manner. It has been a very capable weapon system that became the conventional workhorse of the Vietnamese conflict. By 1980, most of our B-52's will be 20 or more years old. They have all the characteristics of 20-year-old technology. They cannot fly as low or as fast as the B-1. They do not have the electronic countermeasures (ECM) capability of the B-1. Their radar cross-sectional area is much larger than the B-1—all of which make the B-52 easier for the Soviet air defense radars to detect and neutralize.

Now, it goes without saying that we can modify the B-52's to enhance their operational effectiveness. You can re-engine them—you can add more capable ECM equipment—you can re-wing them—all of which would cost about $45 million a copy. With this investment, you would still have a 20-year-old bomber that would be difficult to hide from the Soviet air defense radars and would not have penetration capability of the B-1.

Let me turn next to the FB-111. Yes, it is true that a stretched variant of the FB-111 would cost only about one-third as much as the B-1. But considering equivalent performance—

You would need three FB-111's to do the job of one B-1;

The range of these FB-111's would enable us to hit only 10 percent of the target objectives if refueled in Newfoundland; none, if unrefueled. By comparison, the B-1 could hit 50 percent of our target objectives unrefueled and naturally, 100 percent of them if they are refueled;

The tanker fleet to support the 600 to 700 FB-111's would have to be doubled and that means increasing the whole support facility and the pilot training program; and

The FB-111 force would require about 2,000 crewmembers—and an additional 1,000 crewmembers for the extra tankers.

Finally, while the FB-111 would cost only one-third of the unit cost of the B-1, the operational and support costs would be significantly higher for much less capability.

Earlier I referred to the Brookings Institute study that opposes the procurement of the B-1. I will not go into extensive detail on this study since you will be hearing more about it from some of my colleagues here today and tomorrow. The authors of the Brookings study propose the use of cruise missiles in lieu of the B-1.

Simply stated, cruise missiles cannot do the job of the strategic bomber. Cruise missiles have inherent deficiencies that we have been aware of since their inception. They do not have much in the way of either maneuvering or ECM capability. They fly slowly and do not have the range necessary to attack and penetrate many of our target objectives. Cruise missiles have their place in the U.S. inventory. Their place is to complement—rather than compete—with the B-1.

The authors of the Brookings study pass off lightly the fact that it would be quite expensive to develop and deploy a capable cruise missile system. They propose, for example, the Boeing 747 commercial aircraft as a cruise missile platform. Today's price of a 747 exceeds $35 million per aircraft. Excluded from this price are military specification hardware, avionics, launching systems, among other subsystems. When all of these factors are added together, the cost of a proposed cruise missile carrier would easily exceed $65 million per system.

In comparison to the present estimate of $72 million for the B-1—in escalated dollars—the cruise missile becomes a very unattractive alternative.

I think there are many misconceptions about how much the B-1 really costs. The unit flyaway cost of the B-1, in escalated dollars, is $72.9 million.

The projected program acquisition cost—that is, the cost of the hardware plus all of the R.D.T. & E. amortized over the buy of 244 aircraft—is $87.6 million per copy in escalated dollars. Sure, the price is high but it is, nevertheless, the price that has to be paid for the kind of capability that the B-1 provides.

Comparatively speaking, the Concorde supersonic jet transport costs over $50 million per copy and this is not a fighting aircraft.

While I am on the subject of cost, I would like to clear up any misconceptions that there are concerning the B-1's track record. The program, at its inception, was estimated to cost $9.9 billion. This was for a 244 aircraft buy plus the R.D.T. & E.

The projected total cost of the B-1 program is $11.1 billion.

The $22 billion program cost that the critics advertise is the $11.1 billion B-1 cost plus nearly $11 billion for inflation.

If the Congress wishes to accelerate procurement of the B-1, it can save as much as a half billion dollars per year. This can be accomplished by directing the Defense Department to produce five aircraft per month rather than the currently planned three aircraft per month during the 1980 and later production period.

I was reading in a recent issue of the CONGRESSIONAL RECORD that some Members of the Congress are laboring under the thought that the B-1 represents a $92 billion commitment on the part of the American taxpayer during the next 10-year period. This is pure nonsense. This $92 billion estimate attributes the cost of a completely new tanker force to the B-1 program. The fact is, this country needs and will build a new tanker force with or without the B-1.

Next, let me turn to the current status of the B-1 program. I have seen a number of press releases recently that point out the technical problems that the program is having. Can anyone tell me about a research and development program that has not had technical problems during the course of its development? There are no technical reasons that are known today that will preclude the successful deployment of the B-1 aircraft on schedule.

The B-1 has had more testing to date than any other aircraft at a comparable point in its development. The B-1 test program is demonstrating its readiness for production in its aircraft structural tests, its flying quality tests, its engine development tests, and every other test that has been delineated in the previously developed test plan. At this time, I am confident—the Air Force is confident—and many of the critics of the program are confident, that the B-1 can and will do the job that it was intended to carry out.

I know that some of you here today came prepared to vote against the B-1 because you thought there were more practical alternatives that could do the job. I hope that I have convinced you that this is not the case. The alternatives that cost less than the B-1 provide an unacceptable level of capability. The alternatives that the critics allege will pro-

vide equivalent performance do not, in fact provide equivalent performance but do, in fact, cost more than the B–1. In addition, the stretchout which would be the result of a funding deferral is not only completely unnecessary, but would cost American taxpayers in excess of $500 million.

I hope that all of you recognize the continued need for a strategic bomber force, the importance of this bomber force to our military posture, and the need to select the B–1 as the bomber that will help insure our Nation's security into the 21st century.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I rise in strong support of this legislation with particular emphasis on the points made by my colleague, the gentleman from California (Mr. CHARLES H. WILSON) and I agree with the gentleman when he said that the most important social service any government can do for its people is to keep them alive and free.

Mr. Chairman, I join with my distinguished colleagues here today who recognize the importance of the B–1 to our military posture, and want to take this opportunity to express my support for the program.

The role the strategic bomber plays in our Nation's defense needs has been demonstrated time and time again. The Soviets apparently have no problem in recognizing the significance of the strategic bomber. They have developed and deployed their Backfire bomber—an aircraft that significantly enhances their existing complement of ICBM's and submarine forces.

Much of the opposition to the B–1 emanates from a misunderstanding and lack of appreciation of the importance of our strategic forces.

If we examine the facts, the need for the B–1 is obvious. First, the B–1 is not intended to—and cannot—replace either the submarine or ICBM elements of our Triad. Our ICBM and submarine forces cannot meet all our requirements. The B–1 compliments these forces, and combined with them provides this country with the strategic power to insure deterrence.

Second, there are those who admit that the strategic bomber is necessary, but feel that the B–52 will be adequate throughout this century.

Mr. Chairman, the B–52 will be 30 years old in the early 1980's. It represents 1950 technology. Based on the current threat, the penetration capability of the B–52 is acceptable. Time will not stand still for us, though.

The B–1, coupled with the B–52, will insure the bomber element of our Triad into the 21st century.

Third, the environmentalists are fearful that the B–1 will seriously affect our environment. I am concerned for our environment, as are many here today. But the B–1 will have nowhere near the adverse environmental impact that the critics are proclaiming. It will not endanger the ozone layer of the atmosphere, for the simple reason that it will not operate in the ozone layer except on infrequent occasions. And finally, no one has proved conclusively that damage to the ozone layer is caused by air flight.

Next there is the question of cost: The critics allege that the B–1 will be the most expensive aircraft ever built. By the same token, your 1976 automobile will be the most expensive ever built. The 1976 loaf of bread is perhaps the most expensive loaf of bread ever baked. In 1976, we will be compelled to pay 1976 prices for our commodities. In the case of the B–1 the present cost estimates include escalation through 1986. Discounting inflation, the B–1 program has experienced only a 12-percent cost growth since 1970. And finally, this should be said.

Since I have been a member of the Armed Services Committee, I cannot recall an aircraft that has been tested so extensively during its research and development phase as the B–1. And I have never known of a weapon system development program which did not experience problems during its research and development phase. The fact of the matter is, the B–1 is flying—will continue to fly—is meeting the mission expectations defined by the Air Force back in 1970—and if the current trend continues, it will be deployed on time.

The decision that confronts us today on this program is indeed serious. It could spell the difference between a continued period of deterrence and our engagement in a war.

Remember, our primary mission is to avoid a war and in order to do this, we must have this strategic weapon of peace.

I hope that the decision we make will be based on facts, rather than on misleading rhetoric.

A recent colleague letter proposes to defer the funds for the B–1 stating that the Armed Services Committee "is convinced that there is a high possibility that the Department of Defense in November of this year will have all the data necessary to make a decision on procurement of the aircraft." The letter goes on to state:

> Unfortunately, that same Committee has been convinced in the past that the results of marginal aircraft testing programs had all the data necessary to make a decision on procurement and the Congress has wound up authorizing such notable white elephants as the C–5A.

I believe that this criticism of the Armed Services Committee is unwarranted. While it is true that the C–5A has not met its design goal with regard to its wing life, it proved to be far more than a white elephant during the Mideast conflict. The C–5A carried a total tonnage of 10,763 tons on 145 missions for an average of 74.2 tons per mission. More importantly, it carried outsize cargo like the M–60 tank, the M–48 tank, fuselage and wings for the A–4E, the CH–53 helicopter, and many other items that could not be carried by the C–141 or other aircraft.

Let me suggest, if you seek a simile from the animal kingdom, that the Israeli troops whose survival depended upon them would more likely describe the C–5A as a valued beast of burden.

I did not read a single thing in this colleague letter that reflected the many things that have been proposed by the Armed Services Committee and authorized by the Congress that enable us to deter war and that have made it possible for all of us to be here today talking about the B–1.

I put my faith in the good judgment of this body.

I believe you will separate the facts from the myths and in doing so, join me in supporting this vital B–1 weapon system.

Mr. BOB WILSON. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, I rise in support of H.R. 12438.

I have the honor of being the ranking minority member of the Military Personnel Subcommitee which has jurisdiction for the manpower portion of the bill—titles III through VI.

The Military Personnel Subcommittee conducted a series of 11 hearings over the course of 2½ weeks in its review of the Department of Defense's request for manpower. Further, the full committee had a series of hearings in December and again in February—lasting several weeks each—in which many diverse viewpoints on the defense budget in general, and the manpower strengths in particular, could be aired. We heard from representatives of SANE, the Brookings Institution, and many, many others. The coverage of these hearings was very broad, but it did provide an opportunity for the Members to have access to all relevant viewpoints and to then, in turn, present their concerns to Department of Defense witnesses.

This effort was made by the committee so that we would be in a position to conduct a careful and detailed review of the fiscal year 1977 defense budget and its underlying assumptions. We have done just that.

It is clear from our examination of these proposals that, in the manpower area, the present force is the minimum size consistent with our national security interests. The reductions from the Vietnam experience are complete. Barring a change of major proportions in our international relationships or a basic reassessment of our foreign policy commitments from within, the foreseeable future will demand a force structure of essentially the size as exists today.

I will not stand before you and suggest that the manpower figures the committee is recommending are absolutes. The 2,102,000 figure for the active force can vary a few thousand either way as management improvements occur; however, what is important is that the United States maintain a conventional force that is militarily credible. That is the basis on which this number is established. This force will provide 16 Army divisions, 3 Marine divisions, a naval fleet of 489 ships, and an Air Force of 26 tactical fighter wings and 20 strategic bomber wings.

These elements represent a force structure which our best analytical efforts delineate as the minimum force necessary for conventional credibility. The cost of maintaining a military structure

of this size is significant, and this is the aspect on which we all too often focus. However, it is more important that we recognize the real advantages which accrue to this Nation from the existence of this conventional force.

History has clearly shown that nations will seek to take advantage of perceived weaknesses on the part of their neighbors. It is also clear though that such adventurism is deterred by evident military capability on the part of a potential adversary. What we are buying in the first instance then is a visible military capability which preempts the notion that inexpensive gains are possible. An analogy to a police force is not inappropriate for this military role as it is clear that the real value to society is maintaining a police force is not as much for the criminal activity it apprehends and punishes, but rather the incipient criminal activity which it discourages through its mere existence.

Credible conventional forces provide a safety margin to this nation at a second and very real point in a military conflict. If deterrence fails and armed conflict breaks out, it is vitally necessary that escalation to nuclear warfare not occur. Our conventional forces are capable of engaging in a conflict of almost any proportion with effectiveness. Thus, a period of time for rationality and diplomacy to stabilize the atmosphere is created and, hopefully, to thwart the inclination to resort to nuclear weaponry.

The existence of these two elements are fundamental to the Nation's existence. Their nature is such that they must be purchased by advance planning and investment in conventional forces—after-the-fact commitments are too late and too costly.

Mr. Chairman, having said all of this about the necessity of maintaining the existing force structure, it is also important to state that within this force structure efficiencies in terms of the utility of the structure and the productivity of personnel can be expected. We have been active in assuring that every effort is being made to maximize the utility of this force. At present, it appears that the impact of inflation and the increases in the cost of manpower are providing incentives for Department of Defense managers to scour the structure for efficiencies. We will insure this process continues.

The defense program as presented in the committee bill before you is a good blend of what is necessary for our national security, and insurance against unnecessary and inefficient functions.

I urge your support of H.R. 12438 and the defense program it represents.

Mr. BOB WILSON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. Mr. Chairman, about 40 years ago Winston Churchill stood in a parliamentary setting much like this one and in an effort to get the attention of his colleagues, he said, "Listen." And they fell silent. He said, "I think I hear something." He said, "Yes, it's quite clear now." And they strained as if they heard the sound that Churchill heard. He said, "It is the sound of marching men, the boots of 2 million Germans and 1 million Italians splashing through rain-soaked fields, crunching the gravel of parade grounds in Central Europe."

This is somewhat less of a dramatic moment here this afternoon but the clear and apparent danger to this Republic is no less than it was to England 40 years ago.

There is some growth in this defense budget—not as much as some of us would like, but I stand here warning the Members that if we cut this budget, we are going to be in the same position England stood in 40 years ago.

The committee's judgment on the need for real growth was not arrived at lightly. Criticisms of past management practices in the development and procurement of major weapons systems are not without substance; there is—and will continue to be—significant room for improvement in the efficient utilization of defense moneys. But, even under ideal circumstances, certain basic realities must be acknowledged.

First, the level of defense appropriations cannot be influenced by wishful thinking about the underlying motives of Soviet military expansion. They must be determined, pragmatically, by an evaluation of what is necessary to maintain adequate deterrence against the threat.

Second, it must be recognized that there is an ultimate limit to the benefits to be derived by efficiencies. The real cost of defense like the real cost of everything else in our society, is going up. This results from two interrelated factors. The labor content of purchases from industry is increasing in real terms because the standard of living, as expressed in real wages, rises steadily in an expanding society. And this real growth in labor content is only partially offset by increases in productivity because of the growing cost of implementing governmental mandates on environmental and industrial safety.

The real cost of defense purchases in the specific area of modern weaponry also reflects another fundamental reality: the sophisticated weapons of the future simply do not equate in real cost terms with predecessor systems. Put in simplest terms, a modern F–16 fighter cannot be purchased for the same real cost that procured a counterpart system suitable to our needs in World War II or the Korean war. To conclude otherwise is to conclude that the cost of technology is free. The vast improvement in fighting power of modern systems must be paid for.

If, then, we are to maintain a deterrent force suitably modernized and ready to meet the threat which exists, the question which confronts the Congress is not whether there should be real growth in the defense budget, but rather, what constitutes an adequate level of real growth to maintain the requisite deterrent.

The balance of evidence considered by the committee indicates that the level of purchases from industry must grow by at least 4 percent per year in real terms in order to maintain a constant level of deterrent. The Department of Defense believes that because of efficiencies in the personnel area, this purchase growth can be sustained within an overall real growth rate of 2 percent per year for the total defense function.

It will be pointed out that the real growth in purchases from industry proposed in the fiscal year 1977 budget is 16 percent. This is correct. The question arises, therefore, why do we need 16 percent in the fiscal year 1977 budget, rather than the 4 percent endorsed by this committee as essential. The answer is that the 16-percent figure must be viewed in its proper context, rather than in a vacuum. It is essential to recognize that the 16-percent growth in purchases from industry results from a net real growth of only 7 percent in the total defense budget—which presumes efficiencies in budget areas other than purchases from industry. It assumes, for example, some severe constraints in areas of personnel spending—some of which the Congress has already indicated it does wish to support.

Furthermore, the real growth in purchases proposed by the Department of Defense this year constitutes a 4-year bill which is coming due. Between 1973 and 1976, modernization was continuously deferred as funds were reallocated to domestic priorities deemed more pressing. The vital areas of R.D.T. & E. and procurement—the areas of the defense budget which reflect the cost of weapons acquisition—remained at a static level for a period of 3 years. And as the committee has noted, non-growth in these areas translates into deterioration rather than maintenance of a status quo.

Viewed, then, in the 4-year context, a 16-percent growth in fiscal year 1977 purchases from industry translates into 4 percent for the current year and 12 percent in accumulated growth deferrals for the 3 preceding years, the minimum growth rate necessary to maintain a modern deterrent capability.

It is reasonable to ask whether, with a host of other national priorities, some portion of this year's program might safely be spread out over a number of years instead of trying to make up a 4-year deficiency in 1 year.

The answer is that, 4 years after the end of our involvement in Vietnam, the materiel shortages that arose from the natural course of fighting that war have yet to be made up. In fact, those deficiencies have been compounded by a series of budget deferrals in the post-war years. And many of the major weapons systems in our depleted inventory are nearing the end of their useful life.

Far from being a panacea that will cure all the ills of our deterrent force, the fiscal year 1977 budget should be accepted for what it is—a reasonable step in the right direction at a point in time when we still have such an option. The budget, however, in the judgment of the committee, requires modification and adjustment as it reflected in the committee's recommendation in this report.

Mr. BOB WILSON. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, every Member of this House remembers the Cuban missile crisis in 1962 in which the United States confronted the Soviets with our naval pow-

er in order to force the removal of Soviet strategic nuclear missiles from Cuba. Faced with the overwhelming superiority of the U.S. Navy and the clear nuclear weapons superiority we had at that time, the Soviets had no choice but to back down. The Soviets learned this bitter lesson well. Ever since, they have been embarked on a naval expansion and modernization program never before experienced in the annals of peacetime history.

The United States is essentially an island whose industrial survival depends on a flow of materials across the seas. Within the past year, we passed for the first time the point where we imported more oil to sustain our energy needs than we produced within our borders. Our allies lie across the oceans. To sustain ourselves and to carry out our mutual defense treaties, the U.S. Navy must be capable of maintaining the sea lines of communication.

The Soviets, on the other hand, are a land power. The nations they depend to share in their defense can be reached overland. In war, the mission of the Soviet Navy is much simpler than that of our Navy. Their task is simply to prevent our Navy from insuring the free flow of materials across the seas.

In recent years, our Navy has been shrinking as we laid up without replacement overage ships built in World War II. Meanwhile, the Soviet Navy has been revamped from a coastal defense force to a blue water Navy whose ships are now seen throughout the world. Whereas in 1962 we forced the Soviets to withdraw their strategic nuclear missiles from Cuba, today their nuclear submarines can reach targets throughout the United States from patrol stations off our coasts. With their new long-range missiles they can even reach us from waters close to their homeland.

They now have 20 diesel-powered ballistic missile submarines and 55 nuclear-powered ballistic missile submarines in operation. We have a total of 41 ballistic missile submarines, 31 of which are being converted from Polaris to Poseidon capability. Their total includes 34 Yankee class nuclear submarines which are equivalent to our ballistic missile submarines, except their are newer. They also have at sea 11 of their new Delta class submarines which carry a 4,200-mile missile which can reach any point in the United States from their operating areas in the Barents Sea and northern waters. The Delta class submarine is the Soviet equivalent of our Trident submarines. They are building them at a rate of about six a year compared to our Trident rate of three every 2 years.

It is clear that when the total balance of land-based and sea-based strategic nuclear capability is taken into account, the United States can no longer defend its objectives through the threat of nuclear war, without risking our own annihilation.

When it comes to lesser levels of conflict than all-out nuclear war, let us examine whether we could expect their Navy to be able to prevent our Navy from sustaining the sea lines of communication essential for the defense of ourselves and our maritime allies. Here we see a radical shift in recent years in the balance of naval power.

Beyond the range of their land-based air power, the principal threat of their Navy against ours is their fleet of attack and cruise missile submarines. They now have 80 nuclear-powered submarines designed to attack our fleet, 40 of which are armed with cruise missiles in addition to torpedoes. They have 175 additional diesel-powered submarines, 25 of which have cruise missiles in addition to torpedoes.

Our best antisubmarine weapons system is our nuclear attack submarine. We have only 65 nuclear-powered attack submarines. They are all armed with torpedoes; none of ours have cruise missiles.

The Soviets have the largest and most modern submarine building yards in the world. They are able to build 20 nuclear submarines a year on a single shift basis if they use the full capacity of their nuclear submarine building yards. Last year the Soviets actually put to sea 10 submarines; we put to sea 2. As recently as 1966, the Russians had only two shipyards building nuclear submarines; today, they have four with this capability and they are currently expanding such facilities.

The maximum U.S. capacity to build nuclear submarines is less than half that of the Soviets while our remaining Poseidon conversions are being completed. After the conversions are completed in 1977, the U.S. capacity will still be far below the Soviet building capacity.

Even more chilling than total numbers is the fact that since 1968, the Soviets have introduced over nine new submarine designs, or major modifications in design, besides converting older submarines to improve their capabilities. The Soviets have put to sea improved versions of their attack, cruise missile and ballistic missile nuclear submarines. In the last 8 years, they have put to sea more new design submarines than have ever been put to sea during a comparable period in all of naval history. The United States on the other hand, has produced only two new design submarines during this period. This fact is not surprising since the United States spends less than 20 percent of it naval budget on submarines while the Soviets spend approximately 40 percent.

The buildup of the Soviet surface navy is also of concern. The Soviets have more major surface combatants than the U.S. Navy and many of their ships carry surface-to-surface missiles while U.S. ships do not yet have them. The Soviets have 229 major comabtants compared to our 172 and about 1,770 minor combatants compared to our 189. Since 1968, the number of Soviet major surface combatants increased from 200 to 229, of which 33 are equipped with antiship cruise missiles. The number of U.S. major surface combatants fell from 350 to 172, none of which have cruise missiles. The deployment of our Harpoon cruise missile will not begin until 1977. While their numbers of surface combatants continue to increase, ours continue to decline.

In addition to the torpedo and cruise missile threat posed by Soviet submarines and the missile threat of their surface combatants, Soviet naval aircraft are capable of covering millions of square miles of ocean and are now equipped with antiship missiles of several different ranges. As the older aircraft are replaced with the longer range supersonic Backfire bombers, the Soviet naval air threat will extend farther and farther into open ocean areas. Soviet BEAR D aircraft operate from Guinea, Somalia on the Indian Ocean, and from Cuba as well as from the homeland. Used as reconnaissance aircraft and to target long-range antiship missiles, these aircraft can cover most of the Atlantic, Indian, and Northern Pacific Oceans.

The only category of ships in which the U.S. Navy has numerical superiority is the aircraft carrier. The Soviets are now operating their first carrier which is about the size of one of our Essex class carriers. Theirs is designed to handle vertical take off and landing aircraft and does not have catapult and arresting gear as do our carriers. Even in this category, the U.S. fleet has been continually shrinking. Whereas 10 years ago there were 23 carriers in our fleet, by this summer we will be down to 13. The carrier is the principal offensive striking arm of the Navy in nonnuclear war. It is the only means we have of projecting tactical air power beyond the range of provisioned and defended land bases. In areas of high enemy air threat, without the tactical air power of carriers our other surface ships would be extremely vulnerable to air attack.

As recorded on page 24 of our committee report, Admiral Holloway, Chief of Naval Operations, testified:

> In the broadest sense, for the foreseeable future, we believe that the U.S. Navy will be able to control any ocean or major connecting sea, *unless directly opposed by the Soviet Navy.* (Emphasis added)

He testified that Soviet naval construction has progressed at a rate four times that of the United States and that the growing Soviet fleet has been increasingly making its presence felt in areas more distant from the Soviet Union. He stressed that the sea-denial role of the Soviet Navy requires a much smaller investment than the sea-control capability our Navy requies. In describing the Soviet worldwide naval exercise conducted last year he said:

> For the first time, we observed the Soviet Navy exercising interdiction of sea lines of communication—combined submarine, ship and aircraft operations against convoys—and operational employment of the new and highly capable Backfire aircraft. The growing maturity of the Soviet naval threat and the confidence of the Soviet hierarchy in employing maritime power must give us pause. We face a serious threat to our free use of the seas for the first time in more than 30 years.

These facts substantiate the clear and urgent need to revitalize our Navy. It is clear that the United States will not build enough ships to match the Soviets in numbers, nor need we if we build superior ships that can penetrate and counter their naval threat. It is clear that the direction we must go for our major combatants is to build ships with the best weapon systems our technology can devise. We must provide them with nuclear propulsion so that they are freed from

dependence upon oil supply lines which are extremely vulnerable to the type of naval forces the Soviets have and are building.

Comparison of United States and Soviet submarines, February 1976

Submarine type:	Soviets	U.S.
Ballistic missile		
Nuclear	[1] 55	41
Non-nuclear	20	0
Attack:		
Nuclear	40	65
Non-nuclear	150	10
Cruise missile:		
Nuclear	40	0
Non-nuclear	25	0
Total:		
Nuclear	135	106
Non-nuclear	195	10
Grand Total	330	116

[1] Includes 34 Yankee and 11 Delta class modern ballistic missile submarines.

Comparison of United States and Soviet active surface ships (February 1976)

	Soviets	U.S.
Major combatants:		
Aircraft carriers	1	[1] 13
ASW helicopter carriers	2	0
Cruisers	32	26
Destroyers	87	[2] 69
Frigates	107	64
Subtotal	229	172
Minor combatants:		
Missile patrol craft	135	0
Other patrol craft	540	8
Amphibious ships	80	61
Mine warfare ships	260	3
Auxiliaries	755	117
Subtotal	1770	189
Total	1999	361

[1] This total does not include the *Oriskany*, an *Essex* class carrier scheduled to be taken out of service at the end of fiscal year 1976.
[2] With the exception of two *Spruance* class destroyers, all of these destroyers are 15 to 31 years old.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, in the fiscal year 1976 budget request, the House Armed Services Committee added $14.3 million to provide long-lead items for a fiscal year 1977 buy of A–6E aircraft for the Navy and Marine Corps. In the conference report on the authorization bill for fiscal years 1976 and 197T, the House and Senate Armed Service Committees concurred that the A–6E line should remain open. There were a number of cogent reasons for this action. First, the Navy and Marine Corps force levels were considered to be the minimum required to meet the best estimates of threat probabilities. There is further evidence that there will be an unacceptable shortage of jet attack aircraft with day/night all-weather capability in the early 1980's.

Second, the A–6E is the only aircraft in production in the free world which provides a unique, capable, and highly reliable, all-weather operational jet attack system.

Further, the appropriations bill for the current year, fiscal 1976, as signed into law, contained the funds authorized for the A–6E.

Subsequently, however, the office of the Secretary of Defense disapproved the Navy's request to spend this $14.3 million for continued A–6E procurement in a budget decision dated December 5, 1975. So, therefore, in the bill before you today the Armed Services Committee after careful consideration, concluded the Defense Department had made a serious mistake to terminate all A–6E production and added $125 million for procurement of enough A–6E's for the Navy to keep the all-weather aircraft line open.

Termination of procurement of A–6E aircraft will unacceptably aggravate the Department of the Navy's ability to meet its own A–6's inventory objectives. In addition, a severe shortfall would occur in the 1980's.

Moreover, to end procurement now would require an immediate new research and development effort to produce a replacement all-weather aircraft. Even with the beginning of a research and development effort today, a grave shortfall would still occur before a replacement for the A–6 would be available.

The A–6 is the only all-weather attack aircraft in the Department of the Navy. It represents approximately one-half the Department of Defense's all-weather attack capability and three-fourths of the all-weather moving target detection—MTI—capabilities of the Department of Defense.

Critics of A–6E procurement argue that sufficient assets would exist if the Navy and Marine Corps mutually shared the A–6 assets as they are depleted. The Navy does not agree that the assets could be mutually shared. The Navy and Marine Corps' position is that existing force levels represent the strength in depth which each service requires in the area in which it operates, that is, war at sea for the Navy, amphibious operation for the Marine Corps. There are no all-weather attack capabilities at all in the Naval Reserve and there are no A–6's in storage. Therefore in a major crisis, there will be no source of all-weather aircraft to replace any attrition.

The A–6E is the most advanced strike aircraft in the Department of Defense. In addition to its all-weather attack capabilities, it allows the crew to identify and attack a target, at night or in poor weather, on the first pass. In addition, it provides the capability to maintain, passively, positive contact with high value surface vessels at night and in poor weather.

Procurement of these few A–6E's in fiscal year 1977 will help maintain the Navy's all-weather attack forces at their present force levels into the early 1980's and will allow a more orderly R.D.T. & E. program and transition for development of a new follow-on, all-weather attack aircraft.

The Armed Services Committee in its report strongly recommended that the Secretary of Defense reconsider the action taken in last Decembers program budget decision. The Department of Defense should free fiscal year 1976 funds to keep open the production line on this vital aircraft. By its action on the present bill the committee has provided additional funding authorization for fiscal year 1977 and signaled its clear intention that production of the A. & E. should continue.

Mr. BOB WILSON. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, the Department of Defense budget for fiscal year 1977, for the first time in years, shows some real growth. This is a step in the right direction which will help to get us out of the rut we are in. The Defense budget has, over the years, been steadily declining in terms of real purchasing power; and now we have finally been able to breathe some life into it. Nonetheless, we're still playing catchup ball in a risky game. It is estimated that a net of $7.3 billion in real growth is provided in this bill.

Much of the real growth in the fiscal year 1977 budget can be tied directly to initial procurement of a number of new major weapons systems whose time has come.

For the past 6 to 10 years a number of important weapons systems have been in the research-and-development stage. They have undergone a rigorous scrubbing year after year by the Congress. In some cases the production start has been delayed several years by congressional or administration stretchout of the program. Several of these just happen to be coming into production for the first time this year.

The procurement buys which are coming on the line this year total about $4.7 billion. That pretty much gobbles up a good part of the $6 billion in real growth in this year's procurement account.

Here is a breakdown of the procurement cost of new major weapons systems entering the defense arsenal for the first time:

Air Force B–1 bomber—$1.5 billion.

Navy Trident I missile, 80 weapons—$1.1 billion.

Air Force F–16 fighter—$620 million.

Army UTTAS helicopter—$213 million.

Navy carrier-on-board-delivery (COD) transport—$171 million.

Navy CH–53E helicopter—$116 million.

Army nonnuclear Lance missile, 360 weapons—$76 million.

Army Stinger missile, 445 weapons—$48 million.

Air Force Laser Maverick, 100 missiles—$58 million.

Nuclear-powered strike cruiser—$302 million.

With the start of production on these systems, incidentally, there is expected to be created an additional 120,000 defense-related jobs. But I hasten to assure you that our committee never makes a judgment on that basis. Our sole consideration is the needs of the Armed Forces.

The total in procurement dollars for these new items alone is $3.5 billion, equivalent to more than half of the estimated real growth of the procurement. It is interesting to note, however, that the B–1 has been delayed repeatedly by either the Defense Department or the Congress and that if its history had followed the normal weapons-procurement course, it would have gone into production several years ago. Likewise the Tri-

dent I missile, which has been slowed down by the Congress in the past, would normally have reached production earlier.

As another example, the UTTAS helicopter has been subject to questioning and delay for many years before finally starting production.

The nonnuclear Lance would have been produced several years ago if the recommendations of our committee had been followed. However, it was delayed by congressional action.

It will be seen, therefore, that the increased amount provided for procurement in this bill is due in part to the beginning of production of systems which normally would have gone into production several years ago. I think this is clear evidence that the growth in procurement is related to past delays and deficiencies.

There is one more point worth noting—that delay often increases cost. Congressional foot dragging will result in some of these systems costing more than they would otherwise. Every time we put off a buy for a few years the initial cost goes up when we do start procurement.

So I hope we will not waste a lot of time arguing about what is an adequate amount of real growth in arbitrary economic terms but think in terms of the systems we need for an adequate defense. The bill is coming due on delays of the past. What our committee is providing today is a bill to begin development of the minimum-quality force we need for the future. I urge your support.

Mr. BOB WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Chairman, for some strange reason the systems analysts in the Department of Defense and the Office of Management and Budget have never been able to understand the importance of nuclear propulsion for major combatants built for our naval strike forces.

A quarter of a century ago the analysts said we should not build nuclear submarines because they cost more than conventional submarines. Congress had to intervene and mandate their construction. Today our nuclear-powered ballistic missile submarines are our best deterrent to an all-out nuclear war, and our nuclear-powered attack submarines are our best anti-submarine weapon system.

The systems analysts have a long record of causing delays or cancellation of naval nuclear propulsion projects that Congress considered vital to our defense. They staunchly:

Opposed building the first nuclear powered carrier *Enterprise;*

Opposed nuclear propulsion for the carrier *John F. Kennedy*—CVA 67;

Opposed the nuclear cruiser authorized by Congress in fiscal year 1966 which the Department of Defense refused to build;

Opposed the nuclear cruiser authorized by Congress in fiscal year 1967 for which the Department of Defense held up the release of funds for 18 months;

Opposed the two nuclear cruisers authorized by Congress in fiscal year 1968 for which the Department of Defense held up the release of funds for one for 22 months and refused to build the other;

Opposed continuation of the nuclear powered attack submarine building program beyond a force level of 69;

Proposed sinking 10 of our 41 ballistic missile submarines as a cost-saving measure;

Opposed the electric drive submarine authorized by Congress in fiscal year 1968 for which the Department of Defense held up the release of funds for 5 months;

Opposed the high speed nuclear powered attack submarine which Congress authorized starting in fiscal year 1969 over the objections of the Department of Defense;

Opposed over a period of years building the nuclear powered carriers, *Nimitz, Dwight D. Eisenhower,* and *Carl Vinson;*

Opposed building the four nuclear cruisers of the *Virginia* Class currently under construction.

In each and every case, Congress has had to take the initiative. If the decisions had been left to the systems analysts, we would not have any nuclear powered ships in our Navy today.

However, despite the efforts of Congress to provide nuclear powered warships, progress in the application of nuclear propulsion to surface warships has been slow. Design of the first nuclear powered carrier was started in 1950—over a quarter of a century ago. In 1953, the entire program leading toward the first nuclear carrier was cancelled by the Department of Defense. In 1954, the large ship reactor project was reinstated. This project ultimately led to inclusion of the nuclear powered cruiser *Long Beach* in the fiscal year 1957 shipbuilding program and the nuclear powered carrier *Enterprise* in the fiscal year 1958 program. These were followed by the nuclear powered cruiser *Bainbridge* in the fiscal year 1959 program. These three ships have now steamed a total of 2,000,000 miles. In 1964, they demonstrated to the world the outstanding capabilities of nuclear powered warships during a 30,000 mile cruise around the world without logistic support—a feat well beyond the capabilities of conventional warships.

In the 4 years subsequent to authorization of these three nuclear powered surface warships—fiscal year 1960 to fiscal year 1963—the Department of Defense obtained authorization for two new aircraft carriers and 10 new cruisers, all of which could have been nuclear powered. But, of these 12 major warships, only one has nuclear power. This nuclear ship, the cruiser *Truxtun,* has now been in operation for 9 years and has steamed over 300,000 miles. The *Truxtun* is nuclear powered only because of the initiative taken by Congress, following the recommendation of the House Armed Services Committee, to authorize and appropriate the extra funds to change the *Truxtun* from oil fired to nuclear powered in the fiscal year 1962 shipbuilding program.

The only additional nuclear surface warships completed in the past nine years are the carrier *Nimitz* and the cruisers *California* and *South Carolina.* Thus, we now have only two nuclear carriers and five nuclear cruisers in the Fleet.

If the two conventional aircraft carriers and the nine conventional cruisers authorized since 1960 had been provided nuclear propulsion, the United States would now have in being four nuclear powered carrier task groups instead of the two incomplete nuclear carrier task groups we now have. These nuclear powered task groups would have given the United States a much stronger Navy with which to face the rapidly expanding Soviet Naval threat.

But the analysts have never been willing to appraise properly the increased military effectiveness of nuclear power. They have opposed virtually every nuclear powered ship on the basis that it costs more, and therefore we must not build them because we could build more conventional ships with the same money.

On the other hand, the record is replete with reports from the fleet that nuclear powered warships have vastly superior military capabilities and are well worth their extra cost. As far back as the 1962 Cuban Missile Crisis, the Carrier Division Commander responsible for the nuclear carrier *Enterprise* and the conventional carrier *Independence* during the naval blockade reported to the Secretary of the Navy his personal evaluations of the value of nuclear propulsion based on his first-hand experience. I want to read to you excerpts from that report because it summarizes very well the tremendous value of nuclear propulsion in surface warships. He said:

My experience in *Enterprise* to date has convinced me more than ever that the military advantages of nuclear propulsion in surface combatant ships more than outweigh their extra cost. . . .

I wish that others who so easily dismiss the admitted advantages of nuclear power as not being worth the cost could have shared our experience during the past 2 months on the Cuban blockade. It is now even more obvious to me that the CVA–67 should have nuclear propulsion. *Enterprise* outperforms every carrier in the fleet. No other carrier has made over 10,000 landings in her first year of operation. Her planes are easier and cheaper to maintain and are combat ready more of the time because they are not subject to the corrosive attack of stack gases. They can fly more missions because much of the space normally used for fuel oil tankage is available for ammunition and jet fuel. The rugged reliability designed and built into her propulsion plant gives her a sustained high speed and ever-ready maneuvering rate that greatly enhance air operations. The absence of boiler uptakes has allowed the arrangement of communication and radar systems superior to those on any other carrier. In Washington these often cited advantages of nuclear propulsion seem to get lost in a shuffle of paper—*off* Cuba they were real.

I think the Cuban crisis made all of us do a lot more thinking about how we will fare in war. On blockade duty our conventional escorts were usually refueled every other day. Protecting that oil supply train under air and submarine attack would have been tough enough right here in our own backyard—in an advanced area the problem will be magnified manyfold. I am certain that the naval commanders facing the problem of large numbers of Soviet nuclear submarines and the missiles and the aircraft of the 1967–87 era—the period when CVA–67 and her successors will be at sea—will consider that the added cost of nuclear propulsion in combatant ships is a cheap price to help solve the problems facing them. . . .

My experience tells me that nuclear propulsion offers the Navy tremendous military advantages that will be sorely needed in the years ahead. To maintain fleets at sea against

the hostile forces that are sure to oppose us will require every technical advantage we can possibly muster. Frankly, Mr. Korth, I am deeply disturbed that we are not exploiting to the fullest the technological advantage we hold in nuclear propulsion that has been gained through such great effort. I do not believe you can weigh victory or defeat on a scale of dollars and cents—yet the margin between victory and defeat future naval engagements may well depend on the availability of nuclear-powered ships to the fleet commander of the future.

The record compiled by our nuclear-powered warships has led many of our senior naval officers to conclude that the all-nuclear carrier task group has greater capabilities to penetrate and counter the projected Soviet naval threat than any other naval force we know how to build. A former Chief of Naval Operations has stated:

By being far less dependent on logistic support than conventional forces, and by having the capability to retire at high speed for replenishment in low threat areas, the all-nuclear carrier task group has a capability to continue sustained operations in a high threat area which cannot be matched by any other currently foreseeable naval force. These capabilities are well worth the added cost involved.

Each time a nuclear ship is substituted for a convenional ship in a task group the military capability of the whole force is increased, with the greatest increase realized when the all-nuclear group is achieved. For example, a nuclear carrier with four conventional escorts has twice the range of a conventional carrier with the same four conventional escorts. If two of the escorts are made nuclear range of the task group is again doubled. When all of the ships are nuclear the group as a whole has essentially unlimited high speed endurance. Past studies have shown that in terms of overall cost, including reduced logistic support requirements, each time a nuclear escort is substituted for a conventional ship with the same weapons the lifetime cost of a task group is increased only about one percent. I consider this trade-off of high capability for slight relative cost to be essential in the context of reduced forces rather than the opposite. Past studies have also shown that it takes fewer nuclear ships to do the same job as conventional ships.

Another former Chief of Naval Operations testified to our committee that:

Generally I would expect less loss of life with an all-nuclear group because of its reduced vulnerability and lesser dependence on the supply operations.

He added further that this reduction in the loss of life is not considered in the systems analysts studies. He summed up the situation by saying:

Nuclear power makes possible the greatest advance in propulsion since we went from sail to steam.

Faced with the continued opposition of the systems analysts to nuclear propulsion for major combatant ships, the Congress in 1974 included in the Department of Defense Appropriation Authorization Act, 1975, a new title VIII—Nuclear Powered Navy, which made it "the policy of the United States of America to modernize the strike forces of the combatant vessels. . . ." But the ink was not even dry on the President's signature on August 5, 1974, on Public Law 93-365, when the systems analysts decided to challenge this policy.

The Navy had for several years been developing the AEGIS fleet air defense weapons systems to be installed on a new class of major combatants for naval strike forces intended to operate in the areas of highest threat. The Navy, in consonance with the new law, proposed that the AEGIS strike force ships all be nuclear powered. But the Department of Defense and Office of Management and Budget analysts had their way and the Navy was persuaded to change their recommendation to a mix of 8 conventional ships and 2 nuclear powered to be built over the next 5 years.

Secretary of Defense Schlesinger informed Chairman PRICE last May that he was considering proposing that a new class of nonnuclear AEGIS ships be built. Chairman PRICE immediately wrote to the Secretary of Defense and to the President reminding them of the specific requirements of section 804 of title VIII that:

All requests for authorizations or appropriations from Congress for major combatant vessels for the strike forces of the United States Navy shall be for construction of nuclear powered major combatant vessels for such forces unless and until the President has fully advised the Congress that construction of nuclear powered vessels for such purpose is not in the national interest. Such report of the President to the Congress shall include for consideration by Congress an alternate program of nuclear powered ships with appropriate design, cost, and schedule information.

This was followed by a series of letters between senior members of the Armed Services Committee and the Department of Defense, the Office of Management and Budget, and the President. In this correspondence, the committee set forth the basis on which the committee had concluded that major combatants built for the strike forces should have nuclear propulsion and the specific areas of concern that must be addressed by the Defense Department if they were going to request conventional ships for this purpose. The responses all relied on one argument; namely, that since nuclear ships cost more we should buy conventional ships. None of the replies addressed the fundamental issue of how the U.S. Navy will assure a constant flow of propulsion fuel to conventionally powered strike force ships in the areas of highest threat.

I have studied every word in this correspondence and I can assure you it is extremely frustrating. Those of us who favor providing nuclear propulsion for our strike force major combatants have spelled out the issues in detail. Those who oppose it refuse to discuss the issues and merely cite the fact that nuclear ships cost more money.

Despite the explicit notification of the Secretary of Defense by Chairman PRICE in May of last year that the law requires that no request can be made for a major combatant vessel for the strike forces "until the President has fully advised the Congress the construction of nuclear powered vessels for such purpose is not in the national interest;" the President's determination concerning the conventional AEGIS ship requested by the Department of Defense in fiscal year 1977 was not forwarded to the Congress until almost a month after the budget request was submitted to the Congress and only 4 weeks before the committee had to complete its markup and report to the Budget Committee. Further, as is discussed in detail in the committee hearing record, the President's letter did not "fully advise" the Congress in that it contained incorrect cost information, did not properly compare the capabilities of the nuclear and nonnuclear ships, and did not address many of the fundamental issues involved—issues that Chairman PRICE had specifically informed the executive branch in writing in advance must be addressed in any such determination.

Whether you are in favor of or against providing nuclear propulsion for Aegis ships, every Member of Congress should be deeply concerned over the cavalier manner in which the Department of Defense is treating the provisions of the law included in title VIII. This matter is fully documented in the committee's hearing record. Whether you are for or against the nuclear strike cruisers the committee recommends be authorized, I urge every Member of this Congress to oppose authorization of nonnuclear major combatant vessels for the strike forces until such time as the executive branch has fully complied with the requirements of title VIII.

The argument over whether the Aegis ships should be nuclear powered clearly demonstrates the need for title VIII. If we in the Congress are to be asked to provide funds for nonnuclear major combatants, we certainly should expect the President to "fully advise" us as to why. It is obvious from the record thus far that the analysts have not even fully advised the President as to the full and correct facts in the matter. They would like to have their way without having to justify their position with facts and without facing up to the basic military issues involved.

No matter how many cost analyses are done, they cannot change the fact that major combatants built for our naval strike forces need nuclear propulsion to free them from a tenuous and extremely vulnerable oil supply line. Before he left his job as Chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer urged that the Department of Defense adopt the policy of title VIII. He said:

The experience of our Navy during the 1973 October War is providential warning—which appears already to have been forgotten—that the Navy strike forces must not continue to be dependent on oil for propulsion in an actual war situation.

That is the position of the House Armed Services Committee and that is the policy of the Congress established by law. I urge every Member of Congress to support it.

Mr. PRICE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I rise in support of H.R. 12438. H.R. 12438 is an expensive bill, some 700 million dollars over the budget but I would remind my colleagues that defense expenditures are much like insurance expenditures. Both are greatly expensive until they are actually needed. We can not perform our constitutionally mandated responsibilities of saving, maintaining and supporting armies for the defense of the Nation

without great expense particularly when we are compelled to spend as much as 54 percent of the military budget to deploy manpower costs in order to function with a voluntary military.

The actions of the committee and the report of the committee recognize that we have labored too long under the delusions of détente; that we have been following policies of high folly and at high risk; that we cannot afford to think in terms of how we would like the world to be but must think in terms of how it is.

Ever since President Ford's interview of March 1 in which he told a reporter: "'Détente' is only a word that was coined—I do not think it is applicable any more," a debate has raged over the meaning of the official banishment of "détente" from the administration's vocabulary. Eager to please State Department officials have strenuously assured the Kremlin that despite the change in vocabulary, the policies of "détente" have not changed. On March 22, the Senate spent lengthy debate trying to assure whoever was listening that the Senate still believes in the importance of sound U.S. relations with the Soviet Union.

These learned men have missed the point. Clearly our goal to lessen tensions with the Soviet Union has not been abandoned, nor should it, and the Kremlin has absolutely no need of assurances. What was abandoned was the delusion that détente somehow meant that the Soviet Union would temper its behavior and withdraw from its clearly stated intentions of supporting wars of liberation and attaining world hegemony.

From the beginning of so-called "détente," the word meant something different to the Soviets than it did to us. Détente required restraint and compromise on both sides. But where was Soviet restraint during the October 1973 Middle East War and the oil embargo? Where was Soviet restraint in Mozambique, Portugal, and more recently in Angola? Détente means nothing if it is not reciprocity. But where was our reciprocal advantage for our grain sales, for our capital, and for our technology? And what advantage was there in ratifying Soviet conquests in Eastern Europe when the Kremlin in turn continues to jam the broadcasts of Radio Free Europe and Radio Liberty and even succeeded in banning RFE from the Winter Olympic Games. Détente may require compromise. But as we have reduced our military manpower to 2.1 million men, the Soviets have increased their men in arms to 4.4 million.

As pointed out by Secretary of Defense Rumsfeld, the Soviet Union in the last decade has increased its army divisions from 141 to 168. It has added tanks, artillery and armored personnel carriers, 2,000 tactical aircraft have been added. It has increased its international ballistic missiles from 242 to 1,600; SLBM's from 450 to 2,500, and they are rapidly closing the gap in our technological lead.

This measure will help to revise the foolish policies we have been pursuing in past years. It recognizes that détente is not dead but the delusions of détente are. It is high time.

Mr. BOB WILSON. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. SCHULZE. Mr. Chairman, I have asked for this time to express my deep concern over the latest stretchout of the Trident submarine program proposed by the Department of Defense. The proposed program for fiscal year 1977 would provide construction funding for only one Trident submarine instead of two as planned last year. Construction of these important ships has already been delayed too much. The original Trident program planned by the Department of Defense called for construction of three submarines per year. This program was subsequently reduced to two per year, and then to three every 2 years or an average of one and one-half per year. Each program stretchout has greatly increased the costs.

The committee report points out on page 28 that DOD changes in the program have already added $1.05 billion to its cost. In January the Navy reported the stretchout proposed this year will increase the cost of the first 10 Trident submarines by $225 million.

Of great concern to me is our position vis-a-vis the Soviets. Détente is no longer used to characterize the situation. In the vital area of submarine-based ballistic missiles, the Soviets have already deployed their version of our Trident-class submarine. The Soviets have 11 Delta-class submarines operational which can launch 4,200-mile missiles. With these missiles, Soviet submarines do not have to move outside the Barents Sea to fire at targets in the United States. By comparison our submarine force will not possess a similar capability until the Trident system comes into service in 1979. Meanwhile the Soviets are continuing with series production of their new missile-firing submarines. The Soviet capabilities increase the threat to our land-based strategic forces and the reliance we must place on our sea-based strategic forces.

The Trident submarines will enable the United States to maintain a secure and viable strategic deterrent in the face of the increasing Soviet threat. The longer range of the Trident missiles will permit basing our ballistic missile submarines in the United States—no foreign basing will be required. This will eliminate the vulnerability of our ballistic missile submarine force to international political action that could deny us the use of foreign bases. This is extremely important because we are always in danger of losing our foreign bases. For example, the treaty recently negotiated with Spain calls for removal of our ballistic missile submarines from the base in Rota, Spain in 3 years.

The Trident submarines will increase survivability because they are being built with all the latest technology. They will be more difficult to detect than our existing Polaris and Poseidon submarines because the Trident submarines will be quieter and the longer range missiles will give the submarines vastly more ocean area to hide in. Our existing Polaris and Poseidon submarines are noisy compared to current standards. They were all built with the technology of the 1950's. Quieter submarines are necessary to decrease the probability of detection and insure the survivability of our seaborne strategic deterrent.

The importance of our ballistic missile submarine force as a deterrent to a nuclear holocaust is well known. No sudden strike or irrational act by a potential adversary could wipe out the ability of these hidden, vigilant ships to deliver a destructive retribution.

We must plan now for an orderly program to replace our aging Polaris and Poseidon fleet. It would be folly to postpone the Trident program again. All of the Trident programs presented to Congress by the Department of Defense during the past 3 years have had at least 10 submarines. We should build these ships as economically as possible. I strongly support the action recommended in the committee's report which would restore the Trident program to two submarines in fiscal year 1977 as planned last year. In the face of the current threat we must show our national resolve and not vacillate on a program which is vital to our survival.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in substantial support of H.R. 12438 and specifically section 710 pertaining to the civil defense program. In January I was appointed by the gentleman from Louisiana (Mr. HÉBERT), the chairman of the Investigations Subcommittee, as a kind of sub-subcommittee chairman to review this overall situation along with my colleagues, the gentleman from Michigan (Mr. CARR) and the gentleman from New York (Mr. MITCHELL). We very extensively went into the overall civil defense posture of the United States and the Soviet Union and we determined after 11 days of hearings and 23 witnesses that to reduce our overall budget from the $85 million level to the $64 million level in 1 year and to restrict the expenditure of funds at the Federal level for civil defense only to nuclear defense would tie the hands of local agencies with respect to dual use for both man-made and God-made disasters and was not really a wise limitation on Federal expenditures.

The President of the United States a number of times, including the existing President, as late as last year thought the dual-use concept was excellent. In the budget this year we had found the concept had changed and there was an effort to restrict the funds or limit the use. As a result, our sub-subcommittee and the subcommittee did recommend unanimously to the full committee with the resulting unanimous recommendation of the full committee, we have determined we wanted to recommend to the Budget Committee that we expend, not the sum of $64 million this year for civil defense, not the sum of $85 million, which we had last year, not the sum of $130 million requested by the Federal Civil Defense or Civil Preparedness Agency, but an alternative reasonable amount of $110 million, which is not subject to authorization in this existing bill.

We do, however, believe that civil defense is important in the overall strategic poker game, that if the Soviets can protect their people from attack, certainly the United States ought to have a reasonable capacity to do the same. If the Soviets spend $1 billion for their defense, we cannot spend that much, but we have to spend something, and the something is more than $64 million. As a result, we have determined to review this matter on an annual basis. Members can find on page 13 of the bill under section 710 a provision under section (b) which bootstraps this program for future years such that we will annually be authorizing a reasonable amount by the House Committee on Armed Services, the so-called Public Law 412 bill, for civil defense.

In section (a) of section 710, again on page 13, we provide there, that lest there be any doubt:

"Without in any way modifying the provisions of this Act which require that assistance provided under this Act be furnished basically for civil defense purposes, as herein defined, it is the intent of Congress that the needs of the States and their political subdivisions in preparing for other than enemy-caused disasters be taken into account in providing the Federal assistance herein authorized".

So there we make indelibly clear that it is the intent of the Congress to provide funds for dealing with hurricanes, tornadoes, forest fires and so on, and also for nuclear attacks.

As a collateral matter, we also considered the question of the problem of a radioactive cloud which might result if a domestic nuclear reactor suffered a loss of coolant and melt down. We learned from reasonably good authority, I believe from the Oak Ridge people, that considering the fact that we are siting our nuclear reactors outside of central cities and considering the fact that we are developing a reasonably sufficient civil defense program, that there need be no casualties associated with a melt-down.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

Mr. PRICE. Mr. Chairman, I yield the gentleman from California an additional 30 seconds.

Mr. LEGGETT. Mr. Chairman, if all these improbable melt-down things occurred and we did get a so-called nuclear radioactive cloud, if we took reasonable precautions there should be no casualties resulting from that catastrophe; so I believe this gives us an added reason to have a reasonable civil defense program.

Mr. Chairman, I would add, on January 22, Mr. HÉBERT, chairman of the Investigations Subcommittee of the Committee on Armed Services, requested me to chair a Special Panel on Civil Defense. Other members of the panel were Mr. MITCHELL of New York and Mr. CARR of Michigan. We were directed to review the role of civil defense in our strategic posture and the impact of the administration's substantial cut in the civil defense budget and its directive to preclude the use of Federal grant funds in State and local disaster preparedness activities. The panel held 11 days of hearings at which 23 witnesses appeared. We sought advice and information from the appropriate Federal agencies, State and local civil defense officials who are experts in emergency planning and operations, and from strategic defense analysts and strategists in and out of government. The hearings disclosed several issues of paramount interest, however, the one having the most drastic impact on the overall civil defense program in the United States was the dual-use concept.

The OMB, in behalf of the administration, not only cut back the DCPA budget request but directed that Federal matching funds to the States be confined to nuclear disaster preparedness activities. This proposed restriction compounded the concern about the budgetary impact, because State and local authorities no longer would be permitted to use such funds jointly for nuclear and natural disaster preparedness.

The witnesses before the panel bore down heavily on the adverse consequences of such a restrictive approach. They pointed out that emergencies and disasters, whether natural or man made, whether in wartime or peacetime, demand a unified response and use of all available resources by State and local authorities. They simply cannot afford to maintain separate organizations for different kinds of disasters.

The Federal Civil Defense Act, as the organic legislation for civil defense, does not specifically authorize the use of Federal grant funds for natural disaster work. However, State and local civil defense personnel and resources have been used interchangeably, in the past few years, for both nuclear and natural disaster planning and operations. As a matter of State law, these organizations are responsible for disaster-relief activities as well as preparedness against nuclear attack.

The Secretary of Defense, in affirmation of this dual role, directed the DCPA, upon its formal establishment in May, 1972—transferring civil defense functions from the Army, to be responsible for providing assistance to State and local governments in the development of natural disaster as well as civil defense—nuclear attack—preparedness plans and programs. In August 1972, Presidential guidance gave increased emphasis to dual use plans, procedures, and preparedness within the limitations of existing authority. The latest affirmation, emphasizing dual use, was in a letter to the National Civil Defense Council from President Ford dated March 18, 1975 in which he praised the dual-use concept.

In view of the administration's latest about-face on its dual position, the committee, to allay any doubts about the propriety of dual use of Federal matching grants from DCPA for both nuclear attack and natural disaster preparedness at the State and local levels, approved legislative language, recommended by the civil defense panel, clarifying the congressional intent. Section 710(a) of this bill would amend section 2 of the Federal Civil Defense Act of 1950, as amended, which is a statement of congressional policy. In amending Section 2 the committee eliminates any doubt that such continued use of DCPA funds is proper. At the same time, the amendatory language makes clear that the basic purposes of the FCDA remain unimpaired.

Civil defense is the primary mission. National disaster and other peacetime emergency services are a secondary mission, predicated upon the facts that, first, there are common, mutually benefiting elements in natural disaster and attack oriented functions; and second, it is impracticable or uneconomic for State and local organizations to separate these functions administratively.

Furthermore, the committee firmly believes that the civil defense program of the United States does not get enough attention from Congress. Therefore, in the interests of developing program adequacy and insuring effective administration, the civil defense program should be subject to annual authorization. This periodic review will give the committee an opportunity for annual oversight examination and we will be better assured of a worthwhile program. Approval of this provision by the Congress, as far as civil defense is concerned, means that the Committee on Armed Services and the Appropriations Subcommittee, having responsibility for civil defense, will both review the program yearly and make their recommendations accordingly. By working together, I believe we can develop a truly effective civil defense program. Therefore, the amendatory language provided in section 710 (b), (c), (d), and (e) of the bill serves to put DCPA programs on an annual authorization basis in keeping with the general requirement in section 709.

I urge the members to approve this bill with proper amendments.

Mr. BOB WILSON. Mr. Chairman, I yield such time as he may consume, for the purpose of inquiry to the chairman of the committee, to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I would like to direct a few questions to the Chairman of the Committee.

Mr. Chairman, on page 3 of the bill I notice under the section titled "Other Weapons" that for the Army there is an item of some $63,600,000. Could I inquire as to whether or not that amount of money includes machinegun contracts?

Mr. PRICE. It would, yes.

Mr. COHEN. Could I ask whether or not roughly $15 million out of the $63,600,000 involves a very controversial award, a machinegun contract to Belgium rather than to a competing American company by the name of Maremont Corp.?

Mr. PRICE. I think that is the situation. At the time the committee took this action, however, we were not aware that the award had been made.

Mr. COHEN. I understand that, Mr. Chairman. Since that time I have requested an investigation by the subcommittee of which the gentleman from Tennessee (Mr. BEARD) is the ranking minority member, and he has indicated that he is in agreement of the need to conduct this investigation of the con-

tract award. They have not yet made the award, but the pending award is, in my opinion, in violation of the Buy American Act, and in violation of the public interest of this country.

My understanding is that the subcommittee is going to investigate this, and that a similar request has been filed in the other body. The reason for my inquiry at this time, in view of the subcommittee's interest in investigating the award, is to determine whether or not this action might not be deferred on this particular section of the bill.

Mr. PRICE. We are at a staff level at the present time, looking into this matter in detail. We certainly do not want to take any action on behalf of the committee that will interfere with any procurement matters, but we are seeking all the obtainable facts in connection with this project.

Mr. COHEN. Mr. Chairman, at some point along the way, would it be possible actually to defer the appropriation of the money for this contract if the subcommittee's investigation reveals that the Army did, in fact, violate the Buy American Act? Could that be done before this gets too far down the line?

Mr. PRICE. The gentleman, I think, could do that better with the Appropriations Committee. I do not know whether or not they have reached that item yet, but it is entirely possible that they have not. It would be the better part of wisdom for the gentleman to make contact with the Appropriations Committee.

Mr. COHEN. If the chairman's committee or subcommittee determines that there is, in fact, a violation of the Buy American Act, in which the U.S. Army induced the Belgians to purchase the F-16 airplane by sweetening the proposal by agreeing to buy the Belgian weapon, which I believe is a violation of our law, would the chairman be prepared to submit to the Appropriations Committee testimony to defeat any appropriation for that item?

Mr. PRICE. If it were a violation of law, I think certainly, but we do not know that to be the fact.

Mr. COHEN. But the committee is now investigating as to whether that is the fact?

Mr. PRICE. We are looking at the problem.

Mr. COHEN. I thank the chairman.

Mr. BOB WILSON. Mr. Chairman, I have no further requests for time.

Mr. PRICE. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, I rise in support of H.R. 12438. I would like to comment specifically on section 708 in the general provisions of this bill. This section contains language very familiar to all of us. It is the same language contained in section I of House Concurrent Resolution 198, which expresses opposition of the Congress to any change in the present method of providing financial support for military commissaries.

As you may recall, the President's budget for fiscal year 1976 proposed a change in the method of financing the cost of personnel and overseas utilities. This proposal, after its full implementation, would have required customers to reimburse the Government for all these costs. As a result of that proposal, various bills and resolutions opposing the plan were introduced with more than 50 sponsors and cosponsors. After an extensive series of hearings by the Investigations Subcommittee of the House Armed Services Committee, House Concurrent Resolution 198 was reported out and referred to the House for appropriate action. On July 31, 1975, by a rollcall vote of 364 to 53, this resolution was overwhelmingly approved by the House.

Subsequent to this vote, the House Appropriations Defense Subcommittee, after detailed hearings on the administration's proposal, concluded that commissary operations should be fully supported with appropriated funds and added $109 million dollars to the fiscal year 1976 budget. To put it very bluntly, the House resoundingly rejected the administration's proposal. I interpreted this vote as a loud and clear signal that this issue was settled. The Department of Defense thought differently. In fact, less than a year later, the Department, completely ignoring this congressional mandate, has recommended again the same proposal. Must we go through another long series of hearings, which are time consuming for the members, as well as for the witnesses. With this thought in mind, I recommended that section 708 be included in the general provisions of the bill which was approved by the full committee.

Mr. Chairman, this section is very important to our military personnel throughout the world. It is particularly important to the retired community. Ample evidence and testimony was presented to our committee last year as proof that commissary privileges are considered an excellent incentive in the military services recruiting programs. These privileges, with the accompanying savings, are even more important in retaining those enlisted persons and young officers who are considering the military as a career, particularly those who marry after they enter the service and have families to support.

I believe, very strongly, that the Department's proposal would have a very significant adverse impact on those military personnel who are most in need of assistance, namely, the young enlisted member and the noncommissioned officers and field grade officers with families, all of whom comprise more than 90 percent of our total military force. We have made commitments to these people and a change or diversion from this commitment is, in my opinion, a serious breach of promise. In my judgment, there is no way you can equate the hazards, the absences from home, the separations from family, the deprivations that a man in the military is subjected to versus his civilian counterpart.

People in the military are beginning to question the integrity of their Government. Can they rely on the promises of the Government in the future? I say yes, they can.

Mr. Chairman, in summary we must remember that the possibility exists that if the additional surcharge greatly increases the prices to the customer to a level comparable to commercial prices, patronage will decline. The result of such a decline in sales volume and related surcharge revenues would probably make commissaries unable to continue to operate. Should this occur, more than 1,700,000 families who shop in commissaries could be deprived of this very important benefit. I do not wish to see this happen and I hope the Members of this House agree with me.

I urge you to approve this bill with section 708.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I rise in support of H.R. 12438. My participation in the hearings of the Armed Services Committee left me with serious concern about the level of defense strength proposed in the President's budget, and some of my worries have been met by improvements made by the committee.

I cite one of these, the civilian personnel authorization contained in table V of the bill. As the chairman of the subcommittee pointed out, the committee recommendation is 5,000 higher than the number requested by the administration. Even with this increase recommended by the committee, the civilian personnel authorization will still be 23,500 less than was authorized by the Congress last year. In other words, a sizable reduction in civilian personnel was proposed by the Department of Defense, but the committee believes the cuts were too large.

When the Secretaries of the services and the Chiefs of Staff appeared before us, I asked every one of them the same question: Are you asking for what you believe we need for an adequate defense? Every time I asked the question, the same answer came back: "Given the financial restraints, I believe we can do the job."

I did not have to ask the meaning of that qualifying phrase. I knew the President and the Office of Management and Budget had told Defense how much money it could have. I knew that James Schlesinger thought the budget was not adequate—and we know what happened to him. The Secretaries, the generals and the admirals know, too.

My own military service was as an Air Force pilot. I know how essential it is that aircraft be combat-ready when they are needed in battle. I have been proud that part of my congressional district includes important elements of the Air Force logistics command, which has aircraft maintenance as one of its missions. I knew what last year's civilian personnel cuts did to the work forces, so I used the opportunity of our hearings to ask questions about aircraft availability.

Gen. David Jones, Air Force Chief of Staff, was as forthright as ever when I asked him how many planes were out of service because of maintenance needs. His answer was 25 percent. I know planes need to be checked frequently. Engines need to be repaired or replaced. But one out of every four? The reason: the Air Force has had to take the heavy brunt of civilian manpower cuts in recent years, and it simply lacks people.

I have been concerned for the people who are laid off, too. They are men and

women of special competence and skill, who cannot take their abilities down the street to another job. The state of the economy is an obvious factor here, too.

But purely on the question of maintaining our defense strength at a reasonable level, I would urge strongly that Members recognize the committee proposal to increase the Department of Defense request for civilian personnel is a responsible action, and an important element of this budget.

Mr. Chairman, as we examine this defense authorization bill, let there be no mistake on one essential fact: this is not a "get well" budget, but only a start toward what we need. The able chairman of our Armed Services Committee reached that conclusion after long and thorough hearings in our subcommittees and our full committee, and we heard top civilian and uniformed officers of the Defense Department tell us that it is not a "get well budget."

I respectfully suggest that Members of this House may understand that conclusion better if I point out some of the information received in our hearings. By way of introduction, let me say that I sat through those hearings with growing concern. It is my belief that our Nation must have a defense second to none in the world, but I came to the sobering conclusion that we may not have it now, and that we are not moving at a pace that will maintain that level.

Let me offer some specifics out of the testimony we heard. Martin Hoffman, the Secretary of the Army, testified how that service was seeking to build 16 divisions, opposed to the 14½ we have had, without any increase in manpower. But he also said that we have only 39 percent of the tanks we need, 78 percent of the artillery, 71 percent of the attack helicopters, and 51 percent of the armored personnel carriers.

He said the material requests prepared by the Army would meet only 4 percent of its needs. Four percent. Certainly that one figure shows that this not a get well budget. In fact, as I listened to the Secretary of the Army, I thought of the doctor who told a patient "I can't cure you but take some aspirin and you won't hurt as much." I certainly hope we are not prescribing aspirin for defense pains.

I do not propose to stress comparisons with the Soviets in my statement today, but some figures burned into my memory. Our Army is hoping to get 350 new tanks a year—and the Soviets are getting 2,600. In armored personnel carriers, we are getting 1,410 a year—and they are getting 3,700. In artillery, the gap is even greater: 156 weapons for us, 1,400 for them.

But it is not just equipment that worries me. Gen. David Jones, the able Chief of Staff of the Air Force, testified that some crewmembers flying our big bombers will get less air training time in their careers than he got in his first 2½ years in the Air Force.

He said the copilot on a B–52 bomber makes one practice landing every 10 days. He gets one takeoff, handling the controls himself, every 20 days and 2 hours' flying time, as the pilot, every 20 days.

When Secretary Middendorf led the Navy witnesses before our committee, I asked about their flight training time. Navy pilots have greater problems than the Air Force fliers, because to be combat ready they must know all the problems of takeoffs and landings from a carrier deck. I wanted to know whether those Navy pilots were getting enough sea training. Secretary Middendorf thought they fell about 10 percent short. I asked what it would take, in dollars, to give them that training. Adm. James Holloway gave the answer: $30 million.

This is $30 million which was not requested and which is not in the budget.

Secretary Rumsfeld and Gen. George Brown, Chairman of the Joint Chiefs, told us that we lack the long-range airlift essential to move our conventional forces overseas, and I can still hear General Jones' comment on mobility. He told us:

> Our ability to get our ground forces where they are needed with what they need to fight, in time to influence the outcome of a crisis, becomes a matter of utmost strategic necessity. Our highly capable Army and Marine divisions cannot protect American interests from Fort Bragg or Camp Pendleton.

And I remember the testimony of Gen. Fred C. Weyand, Army Chief of Staff, who told us:

> My overall assessment is that the Army is ready but with severe limitations. The combat forces of the army are ready to meet the needs of a national emergency. Active support army units are less ready and will be able to meet their requirements only with difficulty, because they will be overtaxed for extended operations. Of the Reserve component forces, only half are currently meeting their assigned readiness roles.

Each of us has reservists in his district, men and women who use weekends and summer camp to maintain a measure of military readiness. Yet the Army Chief of Staff tells us—perhaps even accuses us—of tolerating halfway preparedness.

I also remember testimony about the drawdown of our military equipment when shipments of tanks, personnel carriers, weapons, and ammunition went to Israel in the last Middle East war. Our inventory was the major source of Israel supply, and to date we have not restored that inventory to previous levels.

The Navy's active ship force level in January of this year dropped to 477 ships. This is less than half the 1968 force level and the lowest fleet size since before World War II, we were told by Secretary Middendorf.

I believe I have explained my worry that if we do not suport this bill, we may not have a defense capability second to none.

My participation in the Armed Services Committee hearings, buttressed by my own inquiries into our defense needs, convince me that the traditional cry of some elements, "Cut back on defense," is wrong, reckless, and irresponsible. I say we are mortgaging our future, asking our children and their children to face risks from which such actions would not protect them.

"Détente" may no longer be in the vocabulary of some people. I have intentionally left to others the whole question of how strong our rivals may be. I believe it is simplistic to doubt the intelligence assessment of other world powers' intentions or their ability to carry out those intentions. I think of the wisdom of the old phrase "There are none so blind as those that will not see."

In this Bicentennial Year, our Nation celebrates 200 years of freedom. Let us not desecrate this heritage, but rather let us protect our liberty, and insure its protection for future generations. The truth before us, as we consider this legislation, is that if we are to remain the land of the free, we must be the home of the brave.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in strong support of H.R. 12438, the Defense authorization bill, and urge my colleagues to support its provisions as reported from committee.

I would like to direct my comments to those sections of the legislation dealing with the Reserve components and the reasons why the committee felt it important to continue those beneficial programs necessary to preserve a strong and viable National Guard and Reserve. I would like to express appreciation to Chairman PRICE, and especially Chairman NEDZI and members of the Personnel Subcommittee, for their actions in regard to the Reserve components.

To give my colleagues a little background information, I would point out that the Department of Defense proposed several changes for the Reserve components of the Armed Forces, which we considered ill conceived and potentially harmful. My purpose today will be to establish a legislative record of why the committee rejected these attempts to seriously impair the ability of the Guard and Reserve to function as an integral part of the total forces concept.

Three of the changes were offered by the administration as legislative proposals, since they cannot be launched without a change in present law. A fourth was expressed as an administrative decision. All four were conceived for the laudable purpose of reducing personnel costs in the National Guard and Reserves. However, they would cause such damage to Reserve components recruiting, retention, training and flying safety programs that their ultimate cost most likely would be greater than the small savings that might be achieved.

The most disastrous of the proposals would have cut the number of additional training assemblies in half and double their length from 4 to 8 hours. This would include those utilized to maintain acceptable proficiency in such hazardous duty activities as flight training for aircraft crews and parachute jump training. Participants would be paid for a single 8-hour day rather than for two drills. On the surface, that appears to offer the same number of training hours at lower cost. In reality, the cost of one 8-hour day is at least 75 percent of that of two 4-hour drills, and this proposal therefore would have produced only minimal savings. Even worse, the change would lead very likely to a much higher accident rate. Only two or three additional accidents would completely wipe out any savings. That is not economy, it is simply

the appearance of the economy and for this reason this proposal was rejected by the committee.

Another of the proposals would have eliminated what has been unfairly labeled as "dual pay" for Federal employees who are reservists. There are at least 150,000 Federal employees among the 900,000 members of the Selected Reserve. They take their annual 2 weeks of full-time training in a military leave status. This means that they draw their civilian pay during that leave and also are paid for their military service. Under the DOD proposal they henceforth would be paid an amount no greater than the larger of the two pay scales. Most States pay full civilian pay to State employees for military leave, and have been encouraged to do so by the Federal Government, as have private employers. If we enacted this change, we would be abandoning a policy we have for many years encouraged others to adopt. Therefore, the committee felt it wise and prudent to also reject this proposal.

A third proposal the committee was asked to consider would have increased the number of reservists, and units, performing only 24 drills rather than the customary 48. In addition it called on Congress to repeal the statutory requirement that all National Guard units perform 48 drills, and to place thousands of guardsmen on 24-drill status. The rationale given for this proposal was that many reservists and guardsmen do not require 48 drills a year to maintain their individual proficiency. As far as individual skills are concerned, that rationale may be true in some cases, but the requirement for 48 drills, particularly for the National Guard, goes much deeper than individual proficiency. It is based on the requirement that Guard units be able to muster in mere hours and launch operations that require a high degree of teamwork, in either a State emergency or national defense mission.

Mr. Chairman, the capability for a rapid and effective response cannot be developed, in my opinion, in fewer than 48 training assemblies a year.

There is another very important reason the committee voted to retain the 48-drill requirement. Many of the units which might be considered candidates for fewer than 48 drills of numerous high priority units frequently are linked with the availability of support from units with less complex readiness requirements. The committee is very firm in its determination that the 48-drill requirement shall remain intact.

The fourth DOD proposal rejected by the committee would have eliminated administrative pay for unit commanders. Far from producing a real savings, this would do little more than alienate several thousand key leaders for no good reason.

For all Reserve components, the savings would only amount to $2.2 million. Administrative pay is little more than symbolic compensation for the long hours every commander must spend at times other than paid drills to manage the affairs of his unit. For a captain, company commander, it amounts to $5 per month. The maximum set by law for even a senior commander is $240 per year, or $20 a month. It probably amounts to less than 25 cents an hour when one considers the frequent evenings and weekends that are required to properly administer a unit. Loss of the few dollars involved would not induce many commanders to leave the Guard or Reserve, but indignation and bitterness probably would.

Mr. Chairman, to comment further on these four proposals which were rejected by the Armed Services Committee, it should be noted that the Reserve components are struggling to maintain their prescribed strengths through voluntary enlistments. As the economy improves, the job recruiting and retaining qualified members becomes increasingly more difficult. They are laboring, in addition to produce the highest readiness levels that is demanded by the more urgent missions we have laid on them. Yet the Department of Defense suggested that Congress, in the name of cost cutting, take actions that would hamper recruiting, induce losses of trained personnel, inhibit training and increase aircraft accidents.

I am convinced on the basis of long personal experience in the Reserves that adoption of these proposals would have lead to serious harm. I am likewise convinced that we would eventually pay a price considerably greater than any minor savings to be achieved.

A fifth and final proposal concerning the Reserves that was discussed at length in the committee's report falls into a different category. This was the proposal to cut 50,000 selected reservists from the Naval Reserve. The committee took strong exception to the proposal. When you examine the proposal in detail, it quickly becomes clear that the need for a selected Naval Reserve of at least 102,000 has not diminished. Rather, the active Navy has been shockingly deficient in not identifying and assigning relevant missions to its Reserve. The need exists for every billet that currently exists. There is an even greater need for the Navy to utilize those billets far more effectively than they have to this point.

Mr. Chairman, I have long maintained that the National Guard and Reserve are the best buy this Nation can get for its defense dollar. I am pleased that the actions of the committee also reflect this belief.

We want there to be absolutely no doubt as to where the House Armed Services Committee stands on the question of a strong and viable Reserve component. The committee considered and rejected each of the harmful proposals made by the administration concerning the Reserves and National Guard. We want it clearly understood that we fully expect the Department of Defense to abide by the committee's decisions and fully implement those programs for which we have provided authorization.

Mr. Chairman, I would also like to call my colleagues' attention to section 706 of title VII which requires notification to the Congress in a timely manner before major training programs or training missions of a service or defense activity are terminated, altered, modified or consolidated in a substantial manner.

It should be clearly understood that the intent of this provision is to insure that actions of major significance affecting the training establishment are brought to the attention of the Congress prior to their implementation. Actions of this sort can have a major impact on force readiness and ultimately national security. For this reason, Congress should be apprised of any changes in the training program at an early stage and given an opportunity to voice their approval or disapproval.

Mr. PRICE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I would certainly like to commend both the chairman of the full committee, the gentleman from Illinois (Mr. PRICE), and the chairman of my subcommittee, the gentleman from Florida (Mr. BENNETT), for having worked very, very hard to meet this incredibly grueling schedule to report out a very large bill.

Mr. Chairman, I rise in substantial support of most of what is in the bill.

Mr. Chairman, I would like to clarify the action taken by the Armed Services Committee regarding the $474.7 million authorized for procurement of six airborne warning and control system—AWACS—planes.

The committee action on AWACS procurement is included in title I of the bill now before us under aircraft procurement. The section is found on page 2 of H.R. 12438 as printed in the final copy provided to all Members.

It was the decision of the Armed Services Committee to approve the administration's request for $474.7 million for procurement of six AWACS planes. However, it was also the committee's decision that none of the $474.7 million authorized for procurement of these planes should be expended until the NATO members had decided to purchase the AWACS planes to be used for NATO defense.

The committee's action was not prompted by our disapproval of the AWACS program. Instead, it was prompted by our understanding that—from this point on in the production of the AWACS planes—all future AWACS planes would be used to defend NATO.

Although the Air Force had originally proposed 34 AWACS E-3A planes for production, the U.S. requirement for the planes has only been identified as 10. The 10 aircraft—which have been procured already in the last 3 years—will be used for defense of the continental United States, CONUS. Twenty of the original planes proposed have been slated for NATO defense. Since we have already, as of today, appropriated money for the procurement of 13 AWACS planes, the planes included in the fiscal year 1977 budget would clearly be used for NATO defense.

For its part, NATO is currently conducting an independent study of its requirements for an airborne early warning system. The study is expected to be completed later this spring. However, the

decision of NATO to purchase the planes is not expected until later this year.

It was the position of the members of the Armed Services Committee that the United States should not be in the business of building planes for NATO defense that our NATO allies are not yet sure that they will be purchasing. For this reason, it was the judgment of the committee that the funding should be authorized but not made available until it becomes clear that there will be buyers for these planes. Since estimates of the cost of the AWACS planes have ranged from $104 million apiece upward to $180 million apiece, it should be very clear that the planes are necessary before we start sending along money to build more of them.

The utility and performance of AWACS planes have been the subject of heated controversy over the past few years. The record on this is long. However, regardless of whether or not one agrees that the AWACS planes are useful and cost effective, one fact is clear: The cost of AWACS to be used for NATO defense should obviously be shared by the NATO members. With a NATO decision on whether to buy the planes expected later this year, it would be very premature for Congress to make immediately available $474.7 million to buy 6 more of the planes.

Mr. Chairman, as a committee member who actively participated in the thoughtful debate which led up to our action on the AWACS procurement funding, I think that this description accurately explains why we took this action. However, I think that our action may have confused many. For this reason I wanted the record to be clear on why the Armed Services Committee decided to make our authorization of $474.7 million for AWACS procurement this year contingent on the upcoming NATO decision to buy the planes.

I am also including for the RECORD at this time some further information to explain the circumstances and debate surrounding the NATO buy of AWACS:

[Excerpt from House Committee on Armed Services report on H.R. 6674, authorizing appropriations, fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, for military procurement; research and development, p. 18]

AWACS (E-3A)

The Department of Defense for FY 1976 and the transition period requested a total of $520.5 million in the procurement account for AWACS. This program was discussed at length during the R&D hearings as well as during the full committee procurement markup. The testing program was criticized and questions were raised as to the sufficiency of the R&D effort insofar as the testing program goes.

As a result of the discussion and expressed dissatisfaction of the test program to date, the Committee voted to reduce the procurement account by fifty percent and conditionally authorizes $260.25 million for three additional AWACS systems. These funds may not be expended until the Air Force continues comprehensive tests to allay the concerns of the Committee. These concerns, which relate to AWACS performance, are classified and are delineated in a letter to the Secretary of Defense dated March 26, 1975. Further, these tests must demonstrate the ability of the AWACS system against formidable jamming systems such as the EA-6B's in a realistic free play environment. *The Committee requires that the Secretary of Defense provide written certification that these tests are viable and have been accomplished as directed herein.*

Committee action on this program was further complicated by the revelation of a proposal which is being considered within the Department of Defense to sell to our NATO Allies the AWACS aircraft for approximately 50 percent of the cost to the United States Air Force. After a thorough airing of this proposal, the committee directs that the Department of Defense take no action toward the consummation of any agreement with any foreign government relative to the sale of AWACS until the expiration of 30 days after a full report of the terms and conditions proposed for such sale have been reported to the Committees on Armed Services of the Senate and House of Representatives.

[Excerpt from House Appropriations Committee report on H.R. 9861, Department of Defense appropriations bill, 1976, pp. 245-246]

E-3A AIRBORNE WARNING AND CONTROL SYSTEM AIRCRAFT

The budget includes $415,500,000 for six additional E-3A Airborne Warning and Control System (AWACS) aircraft, plus $15,000,000 in advance procurement funding for another six aircraft to be budgeted in fiscal year 1977. This aircraft is not only the most expensive aircraft bought by the Air Force, but one of the most controversial. There also have been differing opinions on the results of AWACS performance during the most recent tests involving Navy EA-6B electronic warfare aircraft in a "free play" environment. The speculation on whether or not NATO will buy this aricraft continues, and there are various opinions as to the optimum number of AWACS required for our own forces.

Congress has previously funded a total of three research and development aircraft and in fiscal year 1975 six production aircraft were funded. The current total program cost is $3,800,000,000, of which $1,500,000,000 represents research and development effort. The total program would fund 34 aircraft, including the three research and development vehicles to be modified later as operational aircraft. NATO is scheduled to make a long leadtime funding decision by December 1975, with a production decision scheduled for about July 1976.

During fiscal year 1973 budget hearings, AWACS was justified as a strategic system for the continental air defense role. The total program then was 42 aircraft, of which 10 aircraft were justified for support of tactical forces when they deploy. During fiscal year 1974 budget hearings, the Committee was told that AWACS was moved from the strategic to the general purposes forces category, but that the move would have no impact on the program one way or the other. The total program remained at 42 aircraft. During fiscal year 1975 budget hearings, Air Force officials advised that the total program was reduced to 34 aircraft as an economy measure; nevertheless it was the judgment of the Joint Chiefs of Staff that a minimum of 41 unit equipped AWACS are required either for the tactical or the strategic defense mission. At that time the Committee learned of the NATO interest in AWACS and the encouragement to NATO to buy the aircraft. However, the Air Force planned to buy 34 aircraft first, which would be followed by a NATO production. During fiscal year 1976 budget hearings, the Committee was told that even if NATO purchased a significant quantity of AWACS aircraft, the U.S. requirement would remain at 34 aircraft.

It would appear from the foregoing that the Air Force is determined to buy 34 AWACS aircraft, regardless of the fact that the missions' priority had been changed and that NATO may buy aircraft to support the NATO requirement. This attitude seems to express a wanton disregard for economy. It is apparent that if the current primary mission of AWACS is to support tactical forces, then the requirement can be reduced. It is also apparent that if most of the 34 aircraft are justified to support the NATO mission and NATO is willing to buy aircraft to support that requirement, then the number of aircraft purchased by the U.S. can be reduced accordingly. It is far more economical for this Government to pay 25 to 30 percent of the cost of AWACS aircraft for NATO, than 100 percent of the cost of 34 aircraft programmed by the Air Force.

The Senate Armed Services Committee, in its report on the fiscal year 1976 Defense authorization bill, questioned the number of AWACS aircraft programmed. It was that Committee's opinion that a total of 21 to 24 planes should provide the Air Force with an acceptable quantity of aircraft to operate with United States forces in their potential areas of direct conflict. The Secretary of Defense testified this year that the Air Force requires 15 AWACS aircraft to satisfy non-NATO requirements.

It is the considered judgment of the Committee that since the primary role of AWACS now is to support the tactical mission, originally described by Air Force officials as requiring 10 aircraft, and since NATO is seriously considering buying a meaningful quantity of aircraft to support the NATO requirement, then no more than about 10 aircraft can be justified for the United States non-NATO mission. NATO should be encouraged to buy AWACS in order to assume their fair share in the defense of NATO forces in Europe.

The Committee recommends, therefore, $260,000,000 for two AWACS aircraft for fiscal year 1976 as a buy-out of the United States requirement. These aircraft should be added to the six aircraft funded in fiscal year 1976. The two aircraft this year, plus the six funded last year and the three research and development aircraft that will be modified for operational use, will provide a total of 11 AWACS to support our own deployed forces.

The above recommendation will provide time for a NATO long leadtime funding decision in December 1975 and a production decision next year. The Committee recommended will result in a reduction of $155,500,000 and 4 aircraft plus $15,000,000 in advance procurement funding that will no longer be required, for a total reduction of $170,500,000.

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ELECTRONIC ENVIRONMENTS

One of the currently intriguing problems in the world of applied electronics is the question of the future of the US Air Force/Boeing E-3A AWACS (Airborne Warning and Control System). The project is currently at a highly critical stage, with USAF being allowed just enough rope to keep the project alive. In Europe a high-level team is sitting down to examine every aspect of it in fine detail, with a view to a possible buy for operations in that theater. To complicate the issue further, one procurement decision depends on the other. The stumbling block appears to be cost.

Or is it? Without doubt, the figures involved are large, probably enough on their showing alone to justify putting the AWACS on the back burner of R&D to await more opulent days. But military experience has always shown that where a genuinely advanced weapons system can be built—one that is unique, and therefore which commands a clear lead over an opponent—the funding will be found. Aircraft carriers and nuclear submarines are, in the US, good examples.

The question is whether, on current evidence and taking into account the alternatives, AWACS actually represents such a strategic watershed. The story has a number of intertwined threads, not all of which are consistent with the final pattern its protagonists wish to weave.

But to start with costs is important, if only because the debate has been run solely on these terms. In 1975 (January) dollars, the cost of the full 34 aircraft which USAF eventually wants to buy was estimated at $4,000-million or $118.8-million per aircraft. The chances of such an extensive buy are, however, slim.

According to the existing laws of aircraft procurement, as the final buy comes down, so does the unit cost go up. If a recent Senate Armed Services Committee estimate of a final need for 21 to 24 AWACS is anything to go by, each fully equipped aircraft *could* roll off the production line at an average program unit cost of between $137- and $147-million per aircraft.

If the US wants to commit that sort of sum for its own aerial reconnaissance and control function, that is a matter between the Pentagon and Congress. But where the debate becomes infinitely more complex is in the effort being made to persuade NATO nations to buy the system, and therefore contribute to a longer production run.

To be fair, there is evidence that the NATO team has only recently come to see the costs in this light. At earlier stages in the planning process, US figures supplied to NATO were considerably lower, and they have since run foul of both inflation and program cutbacks.

Nevertheless, two important factors about the NATO requirement need to be borne in mind. One is that their indication of interest in AWACS is only a *potential* one, and that any decision to buy cannot be taken until at least June 1976, or possibly later. The second factor, and one which emerges as extremely important, is that NATO commanders appear to be holding to an operational philosophy different to the one inherent in AWACS.

AWACS, as it stands, seeks to combine a number of important strategic capabilities. Aside from the technological ones, as the USAF envisages it, the E-3A will provide a command post for local battlefield commanders. It will, in effect, be a unique vantage point in the sky from which the tactical decisions implicit in the ebb and flow of aerial battle can be made. In hardware terms this means that there must be room for people, for the commanders and their staffs, and hence the aircraft must be of airliner size, which AWACS is (being based on a Boeing 707-320C).

But, as the operational requirement comes nearer to being written, it is increasingly likely that the core of NATO commanders are going to reject this "command post in the sky" aspect. Their airborne warning aircraft, they state, would be required only to pass track and target information to the ground environment—and that is where senior decision-makers will operate the NATO combat aircraft.

If these two aspects—an uncertainty about role definition, and a reluctance to go along with the central philosophy—are taken together, one wonders why NATO should ultimately be interested at all in AWACS. Into this picture there then comes the issue of the "two-way street" and the fact that few, if any, of the NATO nations have much to spend on procurement of new equipment. It is an open secret that some countries are still cutting their levels of defense spending.

It is important to stress that there is indeed a role for much that is implied in the system. The technology of radar and sensor development has provided the martial arts with a comprehensive and far-seeing potential. This, in effect, is the ability to extend the horizon of threat perception as well as the prediction which makes dealing with it more effective. A 250 mile radar range, high invulnerability to ECM, the capacity for handling "dense" environments (ie: up to 600 targets a time), and the ability to increase the effectiveness of existing combat forces, are essential in the missile and aircraft-intensive battlefield of today.

However, the obvious question is now one of cost-effectiveness. There are considerable grounds for suggesting that NATO should be turning its attentions to alternative AEW systems. Those initially considered by NATO along with the E-3 system were a new version of the Grumman E-2 (the C variant) and the UK's Hawker Siddeley *Nimrod*. Of the latter, the E-2C *Hawkeye* is the non-jet version, and because of this, its small crew carrying capacity and earlier limitations on its radar, it was ruled out.

Hawkeye, though, would appear to demonstrate in two clear areas an advantage: it is much cheaper, and it is uniquely suited to the AEW role, having been under active development with the US Navy. It demonstrates, as one observer put it, that high performance aircraft are not necessarily needed to carry the latest state of the electronics art aloft.

In its early days it lacked an overland capability, but in its early days AWACS was inferior in the over-water capability needed in NATO However, the pace of technological development being what it is, the present *Hawkeye* radar system, the APS 120, and its successor, the APS 125 (the latter with an improved target memory capability) will have an ability to follow up to 300 tracks at once, with more than 30 intercepts being engaged and monitored at one time. In other areas, such as ECM, ECCM, data link, communications and the all-important one of IFF, it appears, on what evidence is available, that its 250 mile target range capability puts it into a very similar slot to AWACS, if the AEW function is strictly defined.

There are, of course, differences, but do they amount to a strong case for AWACS? Take this set of performance figures, for example: Endurance (unrefueled): AWACS—from 11.5 hours to 6 hours, depending on mission requirements; E-2C (with a proposed extended range capability)—up to 7.2 hours. Operational cruise speed: AWACS—360-365 kt at orbit altitude; E-2C—270 kt (with an max transit speed of 322 kt); Radar handling capability: AWACS—600 tracks at once (it is unknown how many of these can be tactically "managed" at one time); E-2C—300 targets at once, of which 30 will be fully interpreted.

And, of course, in the coast area, the differences are firmly on the side of E-2C, for obvious reasons. Nevertheless, NATO commanders could hardly fail to notice a quoted "flyaway" cost for the E-2C of $16.8-million (in FY 1972 dollars) or an average program unit cost of $20.4-million. These figures will have risen, but nothing like those for the unproven AWACS.

Because of the realities of the competing systems, the myth of AWACS' omnipotent abilities must be examined extremely critically. It is hardly a technological watershed, more a cadillac version of something which already exists. Even so, the U.S., urged on by the Pentagon (which has by no means a blemish-free record in the fables of U.S. aircraft procurement), persists in selling the concept to the utmost.

This has, in the recent past, extended as far as refusing to allow an interested potential customer (the Shah of Iran) to observe a fly-off between AWACS and *Hawkeye*. The Defense Department case seems to rest on AWACS greater computer capacity, despite customer interest from such quarters as Israel, which wants *Hawkeye* to provide data in what must be one of the more sensitive of early warning environments, and Japan.

In the Pentagon's eyes, the Navy's system is small and not beautiful. But a reality of the world (at any rate outside the U.S.) is that much of it cannot afford to indulge in technological overreach. If there were no low cost, high effective airborne warning system in the world it would be necessary to invent one. At the moment there are some real questions about the need to force AWACS on NATO, and some good reasons for considering the alternatives: the *Nimrod* and *Hawkeye*.

After all, it's still the U.S. industry which stands to gain, even in the *Nimrod* variant which would employ extensive U.S. electronics. Grumman and Hawker Siddeley have held long talks on that subject. The signal is clear as to what constitutes Washington's and NATO's interests. But then, as Horatio Nelson said: "I see no signal."

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York. Mr. Chairman, I rise, I guess you could term it in support of part of the bill, but more importantly to compliment the chairman of the full committee, the gentleman from Illinois (Mr. PRICE), who I have always found to be a pleasure to deal with, who is very fair, and the chairman of my subcommittee, the gentleman from Michigan (Mr. NEDZI), who I found one of the easiest gentlemen to work with in the Congress, certainly one of the most compassionate and among the fairest.

Mr. PRICE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, I would like to join with my colleague, the gentleman from New York (Mr. DOWNEY), and all of the others who have indicated to our chairman what a very fine job he has done and what long, hard hours have gone into this bill.

Mr. Chairman, there are some areas of the bill I do not happen to agree with and, of course, we will address ourselves to that later. There are other areas, the major portion of the bill, I support.

Mr. Chairman, I would like to point out very briefly to my colleagues that it is a very difficult decision, in a land where we have people who are not properly educated, who are not properly housed, who are not properly cared for from a medical point of view, to say that it is essential that we spend billions—and I admit very freely I do not have the ability to understand even a billion dollars. Then, on the other hand to say to them that it is essential in the interest of the defense of our country and in the interest of some nebulous, not clearly definable menace that we spend these kinds of dollars.

It challenges the imagination and it does, indeed, boggle the mind.

Mr. Chairman, on the other hand, I feel at the present moment that, indeed, this menace does exist and that we have to address ourselves to that menace with the best available tools that we have.

As a person who has spent a good deal of his life in a military organization, I have to admit that I do not want young men of this country to go into any kind of a serious contention situation, a potential conflict, with less than the very finest of equipment. And that is why I rise in general support of this bill.

I would like to add that we will have some serious doubts cast upon the B–1.

Mr. WIRTH. Mr. Chairman, we have before us today the Department of Defense Appropriation Authorization Act of 1977. This bill provides for an active duty military manpower level set at 2.1 million persons and a reserve force of almost 900,000. It authorizes $33.4 billion for procurement and weapons deployment—an amount almost $700 million more than the administration requested. Acceptance of this request will provide for a real increase in weapons procurement of more than 22 percent and will serve to reverse a pattern of more modest growth in recent years.

This year as in previous years, the basic questions remain: What must we accomplish with these dollars? What are our defense goals and objectives? To whom do we have military commitments and what interests do we seek to defend? Are our forces adequate to meet these needs and objectives? Where can we do better?

In the last few weeks my office, and I presume that of other Members, has been bombarded with facts and figures showing that the Russians have either more military manpower, or less firepower than we do; we have been told that their Navy is either bigger, or less capable than ours. We have received charts and graphs which demonstrate both that the Soviets outspend us militarily and that the United States and her allies overwhelm the Warsaw Pact in terms of overall military clout.

My own analysis of these contending accounts and of the proposal before us does lead me to be concerned both about the intentions of potential adversaries and our future capacity to respond. I am concerned with the fact that by almost any criteria, potential adversaries like the Soviet Union and China have been increasing their military capabilities rapidly. Some of these increases come in areas such as sea control where we have become accustomed to rather unchallenged dominance. Others have come in categories like ground forces where we are already giving away a significant edge. This continuing buildup by some of our potential adversaries suggests the importance which their leadership attaches to military power. As defense analyst Barry Blechman of the Brookings Institution recently noted:

> One need not support any of the more extreme interpretations of the Soviet military build-up which abound these days, to recognize the need for careful evaluation of the potential implications of the trend in military spending.

I am, therefore, even more concerned by the fact that while both our allies and potential adversaries seem to be changing with the times, U.S. defense planners appear unable to break their habits of old. Our strategies for naval deployment and troop deployment are left over from the 1950's. Our Air Force appears hellbent on building a multi-billion-dollar bomber even at the obvious expense of future force levels and effectiveness. For example, one recent analysis suggests that the $1.5 billion requested for the B–1 bomber this year alone would suffice to provide the Air Force with an additional 108 F–15's. Alternatively with those same dollars, the Defense Department could build an entire Trident submarine armed with 24 missiles and 200 warheads, or pay for 10 destroyers, or the annual recurring costs of 5 Army armored divisions.

This pattern is recurrent throughout our procurement budget: we are gold-plating our way toward smaller and smaller force structures composed of ever more expensive weapons.

In short, as I review this defense budget I am struck not so much by its magnitude, though it is considerable, as I am by the poor use we are making of the dollars requested. Uncertain investments in the B–1 bomber come at the expense of clear needs for additional armored vehicles and antitank weapons in Europe. Continued purchase of ships about which our own Armed Services Committee has doubts come at the expense of needed airlift and sealift capacity which would render our conventional forces more capable and more credible.

In the same category of unwise use of funds must come our system of military bases—a system left over from the days of Indian fighting and the antiaircraft battery. Here the Congress itself is chiefly to blame. We continue to ignore the pleas of our own military to allow a more modernized and streamlined basing system. To protect our parochial district interests we sacrifice opportunities to improve the overall effectiveness of our Armed Forces.

Mr. Chairman, in voting on the proposals before the House I shall be supporting many of the increases recommended. I believe in a strong national defense and am willing to spend the money necessary to maintain it. I will, however, also urge my colleagues to join with me in support of amendments which will move us back toward a lean capable fighting force which matches our defense priorities. In the last analysis the success of our defense policy will be determined not only by how much money we are willing to spend, but also by how wisely we spend it.

Mr. GONZALEZ. Mr. Chairman, the Congressional Budget Office tells us, in its first annual report on budget options, that if we measure defense spending in constant dollars, such expenditures have been declining steadily since the Vietnam war, and in fact "are lower now than before the Vietnam buildup." Twenty years ago, military spending absorbed half the Federal budget. Today, defense spending accounts for barely a quarter of Federal spending. No one disputes these facts; they are plain to everyone.

The distinguished committee, in its report on the defense authorization bill, offers clear and somber warnings about the steady decline in our military superiority, and the need to reverse our defense spending decline, so that we can continue to maintain an edge over the Soviet Union. No serious thinker, not even my colleagues who criticize the size of the defense budget, seem to think that there is no need to maintain a superior military strength.

The Congressional Budget Office, again in its statement on options, says bluntly that "the role of the Defense Establishment is to support the foreign policies of the United States." Again, no one questions this.

There may be Members of this body who question our foreign policy in one respect or another; but I know of none who question the fundamental commitments that we have.

Yet there are those who argue for enormous reductions in our defense spending, failing to see that the size of our Defense Establishment is dictated by our commitments, and by the realities of today's military technology—not by wishful thinking, nor by naive assumptions about the nature of Soviet and other Communist political and military thinking.

It is true that we could reduce military spending at any time. We could reduce it by 10 or 20 or 100 percent—if we also reduced our commitments, and if we reduced our determination to guide our own national destiny. But if we wish to maintain our commitments, and if we wish to remain masters of our own national destiny, we have no choice but to arrest the decline in our military forces and begin building new and greater strength.

Too many of my colleagues naively assume that the Defense Department can be cut again and again, with no real effect on its ability to respond to military crisis. Those same persons would no doubt be the first to cry for an investigation if we should one day be unable to meet some commitment overseas.

To those, I say that it is the commitment that gives rise to the need for defense spending—not the other way around. If they want to reduce our strength, they should also talk about reducing our commitments—to Europe, to the Pacific, and to the Middle East.

If there are questions about the need for a large capability for an airlift, those questions ought to be based on the realities of foreign policy and the political climate of the world, and our national commitments. To those who question the need for a nonstop air carrier that can reach as far as the Middle East from bases here in the United States, I can only ask, what overseas base could we rely on in case of a new outbreak of war in the Middle East? If there are questions about the number of Army divisions we need, where are those who question our commitment to a defense of Europe? If there are questions about the need for a B–1 bomber, where are those who argue for less than strategic superiority? For it is the mission that gives rise to the system, not the other way around. If we have no commitment, if we have no mission, we need no force. But we do have a national mission, and a national commitment, which no one argues. Those who cry for less military force say nothing of this; yet their calls for reduced military spending, and their attacks on this or that marginal question never mention our mission and commitment.

We are talking about money in this bill, but that is not the real issue. The issue is, what kind of defense establishment do we want to have? What commitments are we prepared to support? That is the issue.

We know, from every responsible source—our own budget office, the Defense Department, the Library of Congress, and others as well, that Soviet military spending has been increasing, even as our own has declined. Each year, each month, each day, their power has grown while our own has declined. The meaning of this is clear; it is naive and dangerous to assume that the Soviet Union is willing to see its forces decline, if we do so. The opposite is the case; as our complacency grew, their vigilance increased. As our Navy declined, theirs grew; as our Army declined, theirs improved; as we debated over bombers, they built bombers.

As our strength declined, and Soviet strength grew, our relations changed. We became less able to respond to or discourage Soviet foreign adventures; they became more able to engage in such adventures. We became more willing, even anxious, to pursue arms limitations; they became less willing and less anxious. We became confused and muddled in our policy; they focused clearly on their objectives and exploited every opening; and their failures were less due to our skill and determination than to their own blunders. But we cannot count always on Soviet mistakes; Angola is a clear warning of that. Egypt has been a lost opportunity for the Soviets; do we have the wit, the skill, the determination, to capitalize on that?

We cannot count on Soviet mistakes; neither can we count on their being timid. Ominous signs have multiplied in the last 2 years; as our generosity increased, our power decreased, our will decreased, our policy became jumbled and muddy—as all these happened, Soviet timidity disappeared, to be replaced by a new aggressiveness.

Neither can we count on a Soviet conversion to peaceful ways. Their ideology is no different today than it was at the beginning. Communism cannot coexist with dissent; it cannot tolerate anything other than total domination. Our Communist opponents welcome free governments about as much as they do legitimate dissent—and that is, not at all. The doctrine of revolution was not restricted to China, or the Soviet Union, or China; it is meant to reach all countries, wherever opportunity presents itself. And our declining superiority in recent years has presented new opportunities to the Soviets, and their allies.

If we intend to remain free as a people, we have to determine whether we can do this alone, in isolation, or if this requires something more. I know of no one who believes that this country can survive if it elects to defend only our own national territory. Our needs are too great to permit it; we could not survive alone, any more than Great Britain could have survived unaided the Nazi conquest of Europe.

If we intend to protect allies, to join with them against a hostile and aggressive Communist power or powers, to whom should we be committed, and to what extent? What power do we need to accomplish this mission? That is what is at issue today.

Our power is marginal; it is only barely sufficient to meet our commitments. We are warned by our own budget office that we have yet to replace all the war stocks depleted in Vietnam; we have yet to replace and modernize obsolete and obsolescent weapons of many kinds. Our naval strength, the committee tells us at great length, is periously low: we must elect whether to let it continue to decline, or begin rebuilding the fleet. The strategic bombing arm of our Air Force must be replaced or discarded altogether.

These are among the decisions we will make this year; they amount in sum to a decision to have a force adequate to support our commitments, or one that is clearly inadequate.

I believe that if our margin of military power continues to decline, we will have no alternative but to reduce our foreign policy objectives. If we have not the force to support our policy, that policy must be reduced. It is worse to be overcommitted than anything else; for a nation that cannot meet its commitments cannot honor them, and only presents growing temptations to the ruthless and hostile powers that are arrayed against us.

It may be damaging in some ways to have a military budget that is too big; but it is fatal to have one that is chronically too little. We should have learned this in 1916; we assuredly should have learned it by 1939; but the lesson seems lost on too many of us here today. If there is anything that we cannot afford, it is a military budget that is too small to guarantee our independence.

We live in an uncertain and dangerous time. We are not able to foresee events, and we cannot be certain that any policy we adopt will insure our security and survival. But in an otherwise uncertain world, we ought to know that there is one sure thing, which is that we are faced with a hostile and implacable power in the Soviet Union and its allies, and if there is any sure way to extinguish our liberty, it is to become weaker than we are today. It is time to become stronger, not weaker. If we would guide our own destiny, we must be willing to have the strength to do that. In our own individual lives, we know that we must guide our own lives, or let another do it for us; we either exercise our own will, or become subject to the power of others who are stronger. So it is with nations: nations either govern their own destiny, or others do it for them. The decision we face is, which will it be?

I want my life to be free; I want to make my own decisions. I want my country to be free, and to make its own decisions. That means a commitment to greater defense spending, and I will make that commitment. The committee has given us a bill that is adequate; in some respects it is deficient, and I will support amendments that will add strength to the bill, and the forces it is designed to support. I will oppose amendments that in any way weaken our military forces, for we live in a world that does not tolerate weakness.

Mr. EDGAR. Mr. Chairman, I rise in support of the amendment, and I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the amendment we are considering today is not the same amendment we considered last year. It is not an attempt to sound the death knell for the B–1. What it is is a well-constructed, fair compromise between two factions of my colleagues who are very concerned that making the decision to build this airplane in November is not in our best interests. One group of us, and I include myself in that category, is strongly opposed to the entire program of the B–1 and we support a closer look at more economical options which would not limit the strength of our defense posture. Another group of us see this authorization for procurement as a virtual green light for a positive production decision. This group is concerned that the plane has not been adequately tested, and that if a new administration took over next January, its policies would be handcuffed by this production decision planned on the eve of a national election.

Mr. Chairman, if there was evidence to suggest that a delay of 5 years, or even 10 years in implementaing the B–1 program would in any way compromise our ability to deter an attack or respond to one, I would have to oppose this amentment. It takes 42 months before a B–1 rolls off the assembly line and can be made operational. But as our MIRV's are deployed, our ultrasophisticated Trident submarines come on line, and the remainder of our strategic force is modernized, I can sympathize with the view of many of my colleagues that the manned, penetrating bomber is becoming obsolete. At the most, it adds only marginal value to our strategic deterrent of a first strike. And it will force a reaction from the Soviet Union to build countermeasures to it, creating another spiral in the arms race.

Historically, procurement of technologically advanced weapons of death have not added to our security. They act only as an impetus for our potential adversaries to develop counterweapons to neutralize ours, and produce their own doomsday weapons, which we spend billions of dollars in research and development to neutralize. It is clear to me that our security will only be enhanced by devising procedures at the negotiating table which will assure to all parties that the other side is negotiating in good faith. Such procedures need aggressive and creative leadership and some measure of trust.

Mr. Chairman, could we imagine the savings we could realize and the decrease in the instability in the world if we invested this $960,500,000 in exploring strategies for minimizing the arms race instead of fueling it? We are entering a new phase of the history of our civilization when both superpowers will soon have the capability to destroy the other with limited damage to itself. The failure of negotiations in the last decade failed to prevent the deployment of MIRV's. The present talks may fail to prevent the testing of new ultimate weapons which are impossible to monitor such as the

MARV and long range cruise missiles. If these talks are unsuccessful, the result will be another irrevocable notch in the arms race, and the building of weapons which increase the precariousness which characterize our relationship with our foreign competitors.

Mr. Chairman, there have been arguments advanced today which suggest that dismantling the B–1 pipeline, delaying advanced procurement for the 240 planes, and the fourth prototype, would increase the cost of the program. I agree with this evaluation. However, because of our present economic difficulties, we are running a high budget deficit. If options are available which will accomplish the B–1's mission at a lower cost, or if production of the B–1 can be delayed until we can afford to pay for it, this should be actively pursued. Both could be done without damaging our deterrent capabilities. And both could be done without impairing our ability to react massively or selectively should the need arise.

Our present force of B–52's is more than adequate to fulfill the mission it was created for. These planes can remain operational into the 1990's with modifications, according to the Defense Department. In fact DOD plans to keep part of the B–52 strategic force as a complement to the B–1 should the plane be built. Our fleet of B–52G/H's are undergoing $350 million worth of modernization to their electronic countermeasures systems. These planes could be modified to carry air-launched cruise missiles.

Mr. Chairman, the final decision to produce these planes is expected to be made in November if the procurement funds are authorized. Approval of these moneys will severely prejudice the decision in favor of construction. Already, over $2 billion has been spent developing the B–1, and it appears that regardless of its ability to meet its specifications, or complete its testing cycle, the momentum will be in favor of construction unless this amendment is approved.

The embarrassment this Congress has had over its role in producing a C–5A which performed half of its anticipated capabilities at twice the price should not be repeated. I strongly endorse the Air Force's "fly before you buy" policy. However, these procurement funds will be a virtual green light for production of the B–1 despite the fact that the planned testing of these aircraft is behind schedule. The planes were supposed to be tested at least 345 hours of flight time in a variety of modes. So far, I understand that the first plane has logged only 134 hours, the second only 4 hours in the air, and the third has not left the ground. I do not see the possibility that the B–1 will complete the testing necessary to comply with the standards of the Air Force for purchasing it when, and if, the decision is made in November.

Mr. Chairman, I mentioned earlier that I included myself in the group that was opposed to building the B–1 at any time. I would have supported an amendment which would have indefinitely deferred procurement funding.

During the past several weeks, I have had discussions with high level staff of both the Defense Department and the Air Force concerning the need for this plane. Much of the justification I have heard relates directly to preserving the integrity of the triad of strategic bombers, ICBM's and SLBM's which we have heard so much about during today's debate. The deification of this triad concept has contributed to much of the nearsightedness which comes out of the Pentagon, supported by its multimillion-dollar public relations arm.

I do not feel that we should blindly accept this triad concept. It advances three redundant systems when two redundant systems may be all that is necessary. The other two systems are invincible now and technologically advanced modifications are being added now.

Certainly, the increased emphasis on this one part of the triad, the strategic bomber force, will make necessary delays in the improvement of our tactical forces. In the next few years, the budget allocated for the strategic bomber will double, if the B–1 is built. Such sacrifices may have far-reaching and unfortunate consequences to our ability to respond to emergencies other than full-scale nuclear war.

Mr. Chairman, there is little doubt in my mind that the B–1, if it meets its specifications, will improve our ability to penetrate enemy defenses with strategic weapons under many scenarios. It is flexible, resistant to nuclear attack, can utilize relatively short runways, and can deliver its armaments faster than our existing strategic force. But in considering its purchase, there is a need to compare its procurement cost, its operations and maintenance cost, and the need for a tanker fleet, with the alternatives available which can accomplish the same mission. We must consider its ability to escape detection and confuse defenses, its ability to survive a nuclear blast, and its payload. We must take into account the number of planes needed to accomplish its mission.

There have been a number of analyses I have seen which question the validity of the arguments advanced by the Air Force in support of this plane. The most often quoted is the study done by Quanbeck and Wood of the Brookings Institution which I have reviewed. I know many of my colleagues have also studied it. After reading this study, I can see the advantages of a B–52 fleet, equipped with accurate cruise missiles. It would not have to penetrate a sophisticated air defense system at relatively crawling speeds as would be the case with the B–1. It would not have as large an infrared signature as the B–1, although its radar shadow would be larger. It could fire short range attack missiles 100 miles from enemy targets which would rocket at 2.5 times the speed of sound with a nuclear warhead each 10 times the yield of the Hiroshima bomb.

The air-launched cruise missile—ALCM—currently being developed by the Air Force, would extend the capability of the B–52 as a credible deterrent. It would have a range of 1,500 miles, with a projected accuracy of allowing half of the missiles fired to strike within 600 feet the air target. If B–52's were modified to launch them, they could be fired from outside the boundaries of Soviet Union, and still reach its major population centers. The missiles would fly as low as 100 feet and have a very low radar cross section. The Department of Defense has testified that it would cost the Soviet Union billions of dollars to mount a defense against them, in addition to the billions of dollars it would cost to develop such a system. This would place a severe handicap on the resources of the Soviet Union to mount a defense against our existing ICBM and SLBM force.

The projected cost of the B–1 has increased each year, Mr. Chairman. Currently, latest estimates are $84 million per copy. Modifications to the B–52 to launch cruise missiles and modernize the plane with changes in its wings, engines, and other parts, would cost no more than $50 million, and possibly significantly less. I believe that the capability of the air-launched cruise missile makes the B–1 bomber obsolete. In fact, the Brookings study documents the reluctance of the Air Force to totally develop the full strategic potential of the cruise missile for fear that it would endanger the B–1 program. The SCAD program, a forerunner of the ALCM program, was canceled by the Air Force in 1973, according to the Senate Arms Services Committee (S. Rept. 93–385, p. 28) because the application of its use as a strategic weapon was promising. It would "jeopardize the B–1 program, because it would not be necessary to have a bomber penetration if a standoff missile was available as a cheaper and more viable alternative," according to the report.

It is my understanding that the Air Force plans to deploy the air-launched cruise missile in the 1980's for use both by the B–1, if it is built, and for the B–52. This is further evidence that the marriage of the B–52 and the ALCM is an effective one.

Mr. Chairman, if the B–52–ALCM team will work, I see no need to invest billions of dollars unnecessarily, particularly during a time of recession and high unemployment. When I return to my district, I want to explain to my constituents that I supported the most cost-effective strategic program, not the least cost-effective public works project in our history.

Mr. DAN DANIEL. Mr. Chairman, I also rise in support of H.R. 12438.

I would like to address myself to a specific issue which I have been interested in for a long period—the quality of personnel in the military force.

Since the inception of the All Volunteer Force, I have inserted in the RECORD periodically statistical data representing both the number of accessions and their quality. This material was intended to be used as a scorecard of the progress of this concept since many Members of Congress have expressed skepticism at the possibility of maintaining a military force of the quality required. I have shared this concern to a degree and thus have attempted to stay current on the situation, as well as to make this relevant information available to other Members of Congress.

Just now the indicators have shown

that the All Volunteer Force is attracting highly educated recruits. There have been problems and the impact of our recent economic downturn can hardly be ignored, and while there have been problems by and large the fears have been unrealized. The personnel managers in the Department of Defense should receive credit for this accomplishment.

I have not taken the floor today though to laud the past. There is a problem appearing which the Members should be attentive to.

During the hearings of the Military Personnel Subcommittee on the fiscal year 1977 defense program, there were indications that there is developing some falloff in the quality of new recruits. The Army witnesses reported that the Army will fall short of its quality objectives during this fiscal year. In terms of high school graduates, the Army forecasts it will be 10 percent short of its goal of 65 percent high school graduates for enlistees, and even more of a deficit will occur in its goal for obtaining enlistees in the average and above mental categories. As the economic picture brightens, as we all hope it will, this situation will be aggravated.

In the Marine Corps, a different type of problem exists, but with the same result.

As the Members recall, the Marine Corps issued a report at the beginning of the year on manpower quality in the Corps. The report indicated some serious problems resulting from a decision to overemphasize the maintenance of personnel strength levels 3 years ago. This policy caused a decline in quality and led to increases in unauthorized absences and desertions. This problem was compounded by the restricting of the commanders' authority to rid themselves of poor quality personnel to maintain strength. Fortunately, the new Commandant and his staff are turning the situation around. The Marine Corps is making a strong effort to emphasize its personnel quality.

For fiscal year 1977, the ability of these two services to recruit quality personnel is one of significance. Unfortunately, the recruiting effort is being damaged by reductions in the services' recruiting budgets and continuing pressure to reduce these expenditures.

I want to state that I am not happy with the situation where the Nation's young men and women must be convinced by salesmanship to serve their country in the military. This is an unfortunate situation for the country. However, if this is what is needed to function in an all-volunteer environment, it is not reasonable to restrict their capability by preventing them from reaching potential enlistees. If the All-Volunteer Force fails, it should not be because the services were unable to attract our best young people due to an inability to reach them.

We may need to look at some alternatives.

The defense budget should provide enough funds to meet these quality problems. It is important that the Members of the House are aware of the emerging problems so that this program can be supported.

Mr. FRENZEL. Mr. Chairman, in past years I have rather consistently voted against the annual Defense Authorization bill. This position reflected in part my concern for our deteriorating economic condition. I also felt that there was a great deal of fat in our defense budgets which could be eliminated without damaging our essential military capability. Last year I voted for it because I believed we made most of the changes that were required, and that it was as passed, a responsible bill.

I am pleased that we have made good progress toward reducing nonessential defense spending. When I first came to Congress in 1971, defense spending totaled 36 percent of the Federal budget whereas proposed defense spending for the coming year amounts to only 25 percent of the total budget. While it is true that dollar amounts for defense are up, when inflation is taken into account there is about 20 percent less purchasing power in the fiscal year 1977 defense budget than was true in 1971. And given the disproportionate rise in military personnel costs since going to an All-Volunteer Army the falloff in purchasing power for weapons systems is even more dramatic. In trying to strike a better balance between defense and nondefense spending we may have gone a little too far.

While there are still areas of the defense budget that could yield additional savings, it is clear that the days of large cuts in defense spending are behind us. Furthermore, our principal adversary, the Soviet Union has not shared our enthusiasm for reduced defense expenditures in recent years. Recent studies conducted by the CIA and the Congressional Research Service, while subject to varying interpretations, seem to indicate that the Soviet Union is currently outspending us on defense by a wide margin.

We cannot afford to ignore these findings. But, our response needs to be carefully measured in terms of our own special requirements. The Soviets have not sought to duplicate our force structure. Instead they have chosen to emphasize those areas that are appropriate to their unique circumstances. We should do likewise.

The committee this year has done a reasonably good job of adjusting our defense spending priorities to reflect these changing circumstances. In fact, six committees of Congress have voted for about the same level of spending as recommended here today. While I intend to support some amendments which would defer or reduce spending in certain areas, on balance this bill deserves our support, no matter what happens to the amendments.

I will support an amendment to defer $1 billion in production funds for the B–1 bomber. This amendment will not affect the $482 million authorized for continued R. & D. work. We will probably need to begin production of a successor to the aging B–52 bomber at some point but the decision can and probably should be deferred in the light of our current distressing economic situation.

I also intend to support an amendment which would mandate a modest 47,000 reduction in our troops currently deployed overseas. At the present time we have 434,000 American troops stationed on foreign soil at a cost of between $14,000 and $15,000 per person per year. This amendment would save us several hundred million dollars and the absense of these troops would hardly be noticed. My choice is that the reductions be made in ground forces in Europe, but the option would be with the defense experts in DOD. We could probably afford to make much more substantial cuts in overseas personnel in the future, but this is a responsible first step which needs to be taken.

I am pleased that the administration naval construction budget request was up 63 percent over what was appropriated for the current year. The size of our active naval fleet has declined substantially in recent years and increased spending is needed to forestall further reductions. The committee, however, has recommended that we add an additional $1.1 billion for ship construction over and above the already large increase recommended by the administration. In view of the fact that the National Security Council is currently in the midst of a major study of future naval requirements, I would prefer not to force additional ships on the Navy until this review has been completed and we have an opportunity to evaluate the recommendations.

As I stated at the outset, Mr. Chairman, this is a good bill and I urge its adoption.

Mr. MEZVINSKY. Mr. Chairman, the "fiscally responsible" President of the United States is asking this Congress to put up a $960 million downpayment on 244 B–1 bombers which will eventually cost us $90 billion. He insists that we must do that before all the test results are in, before final evaluations have been made, before any semblance of a convincing case has been made that this Nation must have those bombers to guarantee our national security. The granting of that request would amount to one of the most blatant cases of "reckless spending" ever recorded in Congress.

The gentleman from Ohio has offered us a responsible alternative. If we support his amendment, we will not be deciding to kill the bomber program, we will be deciding to wait until all the information we need to make an intelligent determination is available to us.

We know right now that the B–1 would be the single most costly weapons system ever produced. We know that military experts of sound judgment and long experience are convinced that the bomber will add nothing to our security. We know that we already have enough H-bombs in stock to wipe out every city in the Soviet Union 39 times over. We know that the B–1 is a noisy, air polluting, sonic booming, ozone depleting, ecological aberration. We know that the President wants to pour 90 billion tax dollars into hardware we cannot eat, cannot wear, cannot live in, and cannot travel in. Surely we can put that money to better use instead of squandering it on a grand fiasco before we even have the facts.

Ms. ABZUG. Mr. Chairman, I rise in support of the amendment that will be offered by the gentleman from Ohio (Mr. SEIBERLING).

Once we start production, we will never be able to stop short of the programed 244 planes. Since each one will cost $83 million by present estimates—by normal standards this means more than $100 million before we finish—the fleet will cost more than $20 billion.

But this is only for the plane. By the time we add the weapons it will carry, the tankers needed to refuel it and the trained crews required to operate and maintain it, the American taxpayers will end up paying out nearly $100 billion.

It would be irresponsible to authorize the first $1 billion in this long chain without first having more certainty that the investment will yield a real return for our defense, our welfare, and our foreign policy. Responsible research organizations such as Brookings Institution question the effectiveness of the B–1. The GAO has questioned standards and cost schedules.

This amendment would give us the time we need to make an informed decision about what could become the most expensive weapons system ever produced.

But the questions go beyond cost-effectiveness. Environmental groups have testified that the B–1 would cause damage to the earth's ozone layer. It would generate unacceptable noise levels. We should not proceed until we are certain.

I am concerned that our economy can no longer afford to waste precious resources on expensive weapons systems. Over the 15-year lifespan of the B–1 program, New York State citizens will be paying out $500,000,000 more in taxes for the B–1 than they will receive back through contracts. So it is a myth that programs like the B–1 automatically bring prosperity.

Finally, the continued militarization of our foreign policy disurbs all of us who wish to see a world at peace. We have more than enough missiles and bombers to defend our country. Let us not act hastily to add another expensive, questionable weapon to our already overstocked arsenal.

The amendment when it is offered should be adopted.

Mr. MIKVA. Mr. Chairman, the decisions reached by the Congress during this debate of H.R. 12438, the military procurement and research and development authorization bill, not only determine the basic tools essential to our security, but also the scope and goals of American foreign and domestic policy for generations to come. The commitment of our resources to the research, development, and procurement of various weapons systems inevitably decreases the resources remaining for all our vital domestic programs—from education to health to the environment. For example, Congress will soon have to decide whether we can afford $125 million for day care centers, notwithstanding the President's veto. This sum, which affects 5,000 children in my State of Illinois alone, is less than four-tenths of 1 percent of H.R. 12438.

For these reasons, it is imperative that Congress refrain from simply equating the quality of our national defense position with the amount of money spent on military development. As the distinguished gentleman from Wisconsin (Mr. ASPIN) has demonstrated in his comprehensive analysis; there are many factors at play in balancing our military position with the Soviet Unions which make comparisons on a pure dollars and cents basis irrelevant. This, of course, does not mean that we should ignore the Soviet investment in defense. But, it does mean that we should not be stampeded into matching the Soviet Union's decision to dedicate 10 to 15 percent of their gross national product to defense spending. Challenges to the interests of the United States exist now, and will continue to exist in the future. In particular, the Soviet Union has been and will continue aggressively to pursue policies which directly affect our interests. However, the basic question for the United States remains: What is necessary for the security of this country?

The B–1 bomber is not necessary for the security of this country. The manned bomber is the least effective element of our triad defense system. This fact will be true whether we continue with the B–52 or convert to the B–1. Neither can match the capabilities of the cruise missile as a nuclear strike force. Nor does the cost of the B–1 justify its implementation as a conventional weapons system. Strategic bombers are useful only in one type of war—the Vietnam situation in which the military targets are largely undefended. I fervently hope that the Defense Department is not advocating deployment of the B–1, because it plans any more Vietnam-type wars.

The construction of another *Nimitz*-class carrier is not necessary for the security of this country. The $2 billion-plus cost of the carrier will divert a substantial amount of money for the development of more mobile and utilitarian ships. Moreover, it is extremely likely that Soviet technology has advanced to the point where detection and destruction of these high value targets is well within Soviet capabilities. The long-term harmful impact of building another *Nimitz*-class carrier is shockingly demonstrated in the additional views to the committee report to H.R. 12438 of the distinguished gentleman from Washington (Mr. HICKS). Congressman HICKS pointed out that the Soviets can build a nuclear attack submarine every 5 weeks during the 7 years which it will take us to build another *Nimitz*. Therefore, it must be clearly understood that construction of another *Nimitz* will be at the expense of a vastly greater number of other strategically important ships.

The US–3A COD cargo aircraft is not necessary for the security of this country. It is extraordinarily expensive for the duties it is designed to perform—so expensive, in fact, that neither Secretary Rumsfeld nor the Chairman of the Joint Chiefs of Staff, General Brown, could justify the cost. Other aircraft exist which can efficiently perform the service of shuttling high priority passengers and cargo between the shore and aircraft carriers.

Conversely, there are provisions in the committee report which are necessary for the security of this country. The committee's decision to provide funds for construction of four SSN–688 nuclear attack submarines is a sound one. These submarines are superior to all others in either our fleet or the Soviet Union's. Moreover, the 688's serve an undeniable strategic need. The committee has also decided to continue the Naval Reserves at present strength and to maintain the junior ROTC program. I support both these decisions as important to the security of this Nation. However, I also feel that both programs are in need of genuine reforms, and the mere authorization of Federal funds will not be sufficient to improve the programs.

These examples demonstrate the need for a careful examination of all weapons systems and programs sought by the Pentagon and authorized by the committee. There are elements in the committee report which are absolutely necessary for our security, but there are many other elements which are wasteful and unnecessary. I do not see the merit of matching stride for stride the misdirected and misshapen priorities of the Soviet Union. Let them choose to spend 15 percent of their GNP on defense. Their weaponry remains technologically inferior and the loyalty of their Warsaw Pact allies, not to mention their own people, is highly questionable.

H.R. 12438 is a reflection of the priorities which the Department of Defense places on national programs. But, the setting of national priorities is not the function of the DOD, it is the function of Congress. The technological superiority of American defense systems, coupled with our vastly superior production of agricultural, manufacturing, and consumer goods reflects our ability to do more with less and contributes mightily to our security in the world.

The people of the United States are looking to Congress to set priorities for the expenditure of funds on health, education, employment assistance, and mass transit. The President has indicated that he considers these matters to be of secondary importance to a bloated and inefficient military. Mr. Ford's proposed cuts in health, education, housing, employment assistance, child nutrition, mass transit, and veterans' programs from projected fiscal 1977 outlays equal $8 billion—equivalent to the cost of constructing four *Nimitz*-class carriers. It is incumbent upon Congress to demonstrate that we do not share this set of priorities. The massive sums which we provide for military research and development, for construction and for procurement deprive the Nation of civilian technology and the increased number of jobs which civilian production provides. Equally important, military spending is highly inflationary. Salaries are paid for producing goods which do not enter the marketplace, thus demand increases and supply stays the same.

This bill was an opportunity for Congress to demonstrate that there are limits to military power. We should no longer tolerate mindless and unnecessary expansion of our overkill capabilities at the

cost of sacrificing a sound domestic economy. The security of this Nation can be assured by devoting ourselves to developing weapons systems serving direct and observable security interests, and by promoting an economy which is second to none. Unfortunately, this bill, on final passage, does not represent the restraint and concern that the dollars involved should dictate. We are going to come up short in meeting our vital domestic needs by spending too long on supposed military needs, and I cannot support the bill before us.

Mr. MAGUIRE. Mr. Chairman, we all agree that the military procurement bill deals with matters of vital importance to our national security. I am sure we would also agree that, given the price tag of $33.4 billion, it is a bill we need to examine closely to make certain we are getting the security we need, that we are not undermining our security, and that we are getting the security we are paying for.

I am an advocate of a strong national defense capability, and I am most concerned that we get the greatest possible measure of defense security from every defense dollar we spend. Defense and defense-related items account for about one quarter of the total Federal budget. The authorization now under consideration constitutes an increase of 31 percent over that of the last year, more than four times the 7-percent inflation factor. If such an increase were essential for our national security it should of course be incurred, but in this case it is not essential and the increases cannot be justified. Money spent for inadequate systems and for marginal improvements in existing capabilities are not in the best interest of the taxpayer. Nor are programs such as MARV, which actually reduce our security. What we are doing is ignoring efficiency, cost-effectiveness, and quality in favor of symbolism and posturing. We should be examining this budget much more closely than we are.

There are several items in this budget which deal with redundant or nonessential weapons systems. Included in this list are the B–1 supersonic bomber—$88 million per plane, the Trident submarine—$1.4 billion per equipped ship, and AWACS, the airborne warning and control system—approximately $104 million per plane. These systems are not being developed as a result of thorough evaluations of our military needs. Rather they are being developed because we have the technology to produce them.

It has also become more and more apparent that we are absorbing some of these immense costs simply because of interservice rivalries, leading to needless duplication of effort in research, development, and deployment. For example, both the Army and the Marines proposed their own versions of the versatile A–10. Each branch argues that it alone is capable of understanding its own needs; each claims a need for its own version of each weapon to provide its own support. The Army has the advance attack helicopter, used in antitank warfare. The Marines developed the Harrier AV–16 so they, too, would have their own aircraft. But the Harrier's endurance is less that the A–10 and can carry only two-thirds the weapons. Why cannot these services integrate their air support into single tactical units? Why must we continue to pour needless funds into different kinds of equipment for the sake of each service's individual personality? Dollars spent on marginally effective weapons systems and duplicative systems are dollars denied to real defense needs.

There is also a lot of fat in the manpower area. We now require more backup support than ever before for each man, ship and aircraft. We have over 1.5 million civilians on the Defense Department's payroll, a manpower ratio of approximately one civilian for every two persons on active duty. Manpower consumes the largest portion of the defense budget—51 percent and $52 billion of this year's total authorization request. The manpower figure is expected to increase to 55 percent and $70.9 billion by 1980.

We need to reduce unnecessary manpower and its costs. There are still many areas in need of personnel reductions. For example, we should look carefully at the 1-percent retirement kicker, dual compensation of Federal employees who receive active duty pay for Reserve and National Guard duty, the present level of reenlistment bonuses, abuses in the CHAMPUS program and military travel policies.

The housing allowance and commissary operations are other areas in need of review. The Department of Defense has recommended studies in all of these areas, which would in the long run reduce unnecessary costs by over $800 million. We must also act to modernize the entire military retirement system—a system which currently allows many persons to retire between the ages of 40 and 50, and then enter other careers while continuing to receive full retirement benefits. I remain hopeful that the subcommittees dealing with these issues will come forward with their proposals before this Congress comes to a close.

One of my principal concerns is that we are not coordinating our defense posture with our foreign policy. We do not see this coordination in the committee process nor in the administrative process. The adequacy of our weapons systems cannot be determined in the abstract. We need to know what specific role or mission a particular weapons system serves in the context of a specific geographical or strategic purpose. If we fail to procure the weapons we need in terms of our foreign policy objectives, we are likely to find that it is our military procurement policy that dictates major aspects of our foreign policy, our economic policy, and our social policy; the appropriate relationship should be the reverse.

The United States and the Soviet Union account for some 60 percent of the worlds' military outlays and 75 percent of the world's arms trade. The tens of billions spent annually in weapons procurements makes munitions one of the largest industries in the world. The cost of existing stockpiled weapons alone is twice the value of the capital stock of all manufacturing industries in the United States. These costly outlays contribute to inflation, retard our economic and social development, and misdirect resources urgently needed for human well-being and reduction of the root causes of international conflict and tension. There are governments in developing countries which expend as much for military preparedness as for health care and education combined. The result is that the number of their people unable to read or write or attend school, the number unable to see a doctor or enjoy a minimally adequate diet, continues to grow larger. Concerning the human costs of the arms race, I want to call attention to the very excellent and eloquent statement by my colleague from Ohio (Mr. MOSHER) printed on page 10192 of the CONGRESSIONAL RECORD on April 8, 1976.

Mr. Chairman, I am deeply troubled that this Congress is once again failing to address itself even to the known abuses, duplications, and marginal features of these weapons. I believe in an effective national security program which will advance with technology, support our commitments, enhance rather than undermine the strategic principles upon which our security is based, and be responsive to any possible worsening of the international climate. But our security also requires that we must be cost vigilant. During a period when America is suffering from severe economic problems, no branch of Government should be exempt from rational cost controls. Many specialists in defense technology are concerned about the incremental cost-effectiveness of some of our current and proposed weapons systems, when contrasted with a combination or modification of presently operational systems. While there is an essential threshold of national security which we must achieve and maintain, persistent clamorings for more and more money to produce excessively costly, limited-utility weapons systems do not address either our real domestic or military needs and, in fact, will detract from meeting them.

Mr. Chairman, the military procurement bill—which includes billions of dollars for weapons systems not even requested by the Department of Defense—leads us still further into the quagmire of spending more in exchange for less. It is for this reason that I have decided against supporting it.

Mr. PRICE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by title.

Mr. LEGGETT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the

Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1977 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $555,500,000; for the Navy and the Marine Corps, $3,157,500,000 of which $125,000,000 shall be used only for the procurement of the A–6E aircraft; for the Air Force, $6,344,800,000 of which the $474,700,000 authorized for procurement of six E–3A Airborne Warning and Control System (AWACS) aircraft shall not be expended until a favorable decision is made by the North Atlantic Treaty Organization allies for procurement of the system.

MISSILES

For missiles: for the Army, $552,400,000; for the Navy, $1,897,900,000; for the Marine Corps, $71,900,000; for the Air Force, $1,599,400,000.

NAVAL VESSELS

For Naval vessels: for the Navy, $7,378,300,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,084,300,000 of which $65,200,000 shall be authorized for appropriation for plant facilities expansion and modernization for future XM–1 tank production: *Provided*, That none of the funds authorized to be appropriated may be obligated on a specific production site until such time as competitive testing between possible United States XM–1 tank contenders has been completed and a winning contractor designated; for the Marine Corps, $29,700,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $251,800,000.

OTHER WEAPONS

For other weapons: for the Army, $63,600,000; for the Navy, $73,000,000; for the Marine Corps, $3,500,000; for the Air Force, $2,900,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 2, line 13, after "the system." insert the following new sentence: "None of the $960,500,000 authorized for procurement of three B–1 aircraft and initial spares shall be expended until (1) the President, subsequent to February 1, 1977, certifies to the Congress that he, having reviewed the results as of such date of the B–1 aircraft test and evaluation program, regards such expenditure as being in the national interest, and (2) the Congress, by a concurrent resolution adopted subsequent to such certification, approves such expenditure."

Mr. SEIBERLING. Mr. Chairman, I would like to join in the recent round of accolades to the chairman of the Committee on Armed Services for his fairness, his courtesy, and his competence, which, as we all know, is practically without equal in the House.

I do respect very much the gentleman's viewpoints and the contributions the gentleman has made to national defense and to the work of the Congress. However, Mr. Chairman, I think we have another obligation besides recognizing the contributions of our distinguished colleague, and that is our obligation to the people of the country not only to provide a sound defense but to provide one at the minimum cost.

I would like to read a quotation from one whom we all recognize as one of the greatest Americans of this century who said:

Every gun that is made, every warship that is launched, every rocket that is fired signifies in the final sense a theft from those who are hungry and are not fed, those who are cold and who are not clothed. This is not a way of life, it is humanity hanging from a cross of iron.

Those words are the words of our late, great President, Dwight David Eisenhower.

Mr. Chairman, this amendment does not cut any money from the bill, all it does is defer the expenditure of that portion of the money allocated to the B–1 bomber, nearly $960,500,000 for procurement of the first three production models of the B–1 until the Air Force and the prime contractor can complete the minimum flying test program originally agreed to by the Air Force and recommended by the GAO.

A copy of the amendment, along with a summary of the GAO report published in Aviation Week and Space Technology, is printed in today's CONGRESSIONAL RECORD on page 9840

The bill of the Committee on Armed Services already contains a precedent for this action. The bill would defer expenditure of the money, $474 million, authorized for six AWACS aircraft "until a favorable decision is made by the North Atlantic Treaty Organization allies for procurement of the system."

Our amendment would defer expenditure of the funds authorized for the B–1 production models until the President of the United States certifies to the Congress, subsequent to February 1, 1977, that he has reviewed the results of the B–1 test and evaluation program, and regards such expenditure as being in the national interests, and thereafter the Congress, by concurrent resolution, approves such expenditure. And I have no doubt but that if the President makes that finding that the Congress will so approve.

In August 1974, Mr. Chairman, the Air Force agreed with the Office of Defense Research and Egineering that the B–1 program should meet certain conditions prior to a production commitment.

Mr. Chairman, I am not going to go into those conditions since they have been already printed in my statement that appears in the CONGRESSIONAL RECORD on page 9840

This commitment is in keeping with the Armed Services Committee's "fly-before-buy" policy. The commitment, however, is far from being met and is not likely to be met, according to the GAO, until some time next year.

The GAO report further states that:

Although required by Department of Defense instructions, minimum performance thresholds have not been established for the B–1 weapons system.

The same may be said about the cost and schedule thresholds which are also required by the DOD instructions.

In fact, the test program is behind schedule. Plans call for 345 flight test hours on the first three B–1 aircraft before the production decision, those aircraft having been made already for research and development puposes. As of yesterday, the first B–1 had only flown 134 hours. Aircraft No. 2 had not flown at all and aircraft No. 3 has flown 4-plus hours. So we have a little more than 138 hours flown out of 345 hours required to complete the flight testing program.

Furthermore, the tests already have indicated major structural problems which will require expensive design changes or future downgrading of the B–1 performance specifications. And I might add that the specifications have already been downgraded very substantially as a result of the testing that has already been done.

The GAO report states that due to a failure of the wing carry-through structure assembly, redesign of the wing structure is required before static testing can be completed.

Static testing of an assembled airframe, which is normally required by the Air Force, is not even planned for the B–1 because of cost considerations.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. The distinguished chairman of the committee has said to me, in response to these points, "but if we defer putting this money in so that it can be expended without further decision by the President or the Congress, we will upset the production schedule and dismantle the team."

Let me point out that on page 10 of the GAO report it states that a slower delivery of the early production aircraft was decided on by the Air Force "because the delayed start of the fourth aircraft" which is now being made "reduced contractor manpower to such a low level that new personnel could not be introduced in the production operation fast enough to meet the existing schedule." So there is no team that is going to be dismantled if this amendment passes.

Furthermore, Secretary of Defense Rumsfeld and his predecessor, Secretary

Schlesinger, have both testified that the B–52 fleet will remain operational until the end of the 1990's. This being the case, there is no compelling need for the Congress to give final authorization to the production phase of the B–1 before the Air Force has even completed the basic testing and evaluation.

The GAO report includes, among the key issues, evaluating the B–1:

Testing to be completed before the production decision.

and:

To result in a demonstration of the system's capability to perform its mission. Consequently, the Congress should require the Air Force to submit to Congress the results of flight and ground tests.

The Committee on Armed Services says that there is a high probability that the Department of Defense by November of this year will have all the data necessary to make a procurement decision on the B–1. In other words, the committee concedes the possibility that DOD will not have the data by November. Clearly, however, the Congress does not now have the data to make the procurement decision, and neither does the President. For Congress to make this decision in such circumstances would appear to me to be irresponsible and lay us open to another possible debacle like the one involving the notorious C–5A transport plane.

Our amendment will assure time for a completed flight test program as recommended by the GAO and agreed to by the Air Force, and a prudent decision by the next President, whoever he may be, and by the Congress, based on adequate test results.

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

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I rise to express my strong opposition to the inclusion of development funds for the Navy's Project Seafarer—funds which have been included in the fiscal year 1977 defense authorization bill before us today.

The Navy has indicated on several occasions their strong desire to locate the ELF system in the upper peninsula in a geological area known as the Laurentian Shield. The Navy has argued that not only is the Michigan site geologically advantageous, but also that it is less costly than other possible site areas in Nevada and New Mexico.

The proposed Michigan site area is in my congressional district and I have therefore taken an extremely active interest in the project. The site survey area, comprising roughly 10,000 square miles in seven counties, has become a focal point of debate and controversy in recent months.

The Navy has requested $29.8 million to fund the project for fiscal year 1977; $4.65 million of the request would, if granted, be used to construct a pilot project in one of the site selection areas. The pilot project would consist of two 50–60 mile-long buried cables, a transmitter, and a communications control center.

I am opposed to the $4.65 million requested for deployment funds because I believe it is premature. It comes before the completion of a number of important studies associated with the controversial system. For example, the National Academy of Sciences is presently conducting a review of the literature concerning the biological and ecological effects of ELF radiation which, by the most optimistic timetable, will not be completed until the end of this calendar year. In addition, the final environmental impact statement on the site areas will not be completed until early summer, 1977.

The granting of deployment funds to build even a pilot project is simply not justified prior to the completion of these important research efforts. Too many serious questions have been raised in the past concerning the ELF system to warrant deployment prior to the time concrete scientific data finally becomes available.

In my view, the $4.65 million request is also outside the scope of past congressional policy and intent. Since 1959, the Congress has authorized and appropriated funds exclusively for research, development, and testing of the ELF system. In fact, on various occasions, the Congress has removed funds requested for deployment and inserted language in committee reports indicating that no such funds were to be appropriated until the nagging questions surrounding the project are answered.

This is as it should be. In my judgment, Project Seafarer has so many ramifications for the Nation's national defense policy that Congress should fully examine, debate, and understand the implications of the controversial system before funding its construction. Again, this can only be done after all the facts are in and the information is available to the Congress.

I am also disturbed over the impact the appropriation of deployment funding might have on the people's role in the site selection decisionmaking process. My own position in this regard has been very straightforward. I have stated publicly on occasions over the years that the very magnitude of the system and the controversy that surrounds it dictates that only the people can decide if it should be located in northern Michigan.

The Navy recognized this principle in both Wisconsin and Texas and has continued to demonstrate a lack of interest in siting the system in either of those States due to negative public opinion concerning the project. In addition, only recently in response to a request for a specific interpretation, Deputy Secretary of Defense William Clements has assured Governor Milliken that he would not recommend Michigan as the final candidate site without the Governor's approval. Such a commitment by the Navy once again clearly publicized a Navy intent to abide by the wishes of a jurisdiction other than the Federal Government in selecting a final site for the ELF system.

I should also point out that the Congress on at least two prior occasions made provision for active local citizen input into the final site selection process. I refer to the committee reports which accompanied the Department of Defense's appropriation bills in fiscal year 1975 and fiscal year 1976, which state very emphatically the role of State and local government in the site selection process:

None of the funds provided should be used for full scale development of the Sanquine system. Furthermore, the committee will not consider funding full development of Sanquine until a site has been selected, and State and local government agencies concerned concur in the deployment plan.—from House Appropriations Committee Report on DOD appropriations for FY75;

The reductions delete the funds for full scale development, pending selection of a construction site for the system. The site selection process should include participation by state and local authorities—from House Appropriations Committee Report on DOD appropriations for FY 76.

The approval of deployment money could, however, negate all of this. In my view, the pilot project in reality amounts to a Navy effort to secure approval of full-scale development of the system. The "test bed" would comprise a considerable area of the final site and would, in fact, amount to a de facto site selection.

It is difficult to imagine that once $4.65 million has been poured into an area to begin construction of the system, it will be easy to stop construction of the entire project. Thus, the approval of the $4.65 million could well eliminate the possibility for final congressional review and approval as well as completely remove any possibility of serious State or local government involvement in the site selection process.

Finally, I should point out to my colleagues in the House that removal of the deployment funding will not do serious harm to the timetable for eventual construction of the system. Using the Navy's own timetable, it is quite clear that the delay caused by removing the development funds would be about 2 months. Instead of having the money to begin construction in July or August 1977, the Navy would have to wait until a similar request was approved effective October 1977.

The delay is minimal and will cause no irreparable harm to the program. I believe, however, that I have demonstrated that the risks and pitfalls in not delaying construction of the system are many, and they are serious.

I deeply regret, therefore, that the House Committee on Armed Services in its deliberations has chosen to retain the $4.65 million in deployment funding for Project Seafarer in the fiscal year 1977 defense authorization bill. However, it is my understanding that Senators GRIFFIN and HART of Michigan and Senator NELSON of Wisconsin are working to have these deployment moneys removed in the Senate Armed Services Committee's consideration of the defense authorization

bill. Should their efforts be successful—and I am hopeful that they will be—I will urge that the House conferees reconsider the House Armed Services Committee's position and delete the deployment moneys for Project Seafarer from the fiscal year 1977 budget.

Mr. ADAMS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, to a very great extent what occurs in the debate on this bill will serve as a basis for targeting with regard to the budget resolution that will appear on the House floor the 26th of April. One of the great concerns that all of us have with regard to this Bill is that it will tend to lock in, as stated by the gentleman who appeared in the well before me, certain production runs. In the procurement area that will in effect set policy of production for the next 4 to 5 years. In this particular case, and with respect to certain other procurement items, we have been arguing about what size or percentage of increase should occur in Defense spending. If no amendments are adopted to the bill as presented by the Committee, the total amount will be above the President's budget by between one-half billion dollars and $1 billion. The result of this will be that we will have to raise the deficit figure when we bring before the House the budget resolution or target lower in the hope the appropriation committee will not appropriate the full amount being authorized.

The Budget Committee in its total allocation for Defense is very close to the President's figure. In fact, we are less than $1 billion apart in budget authority and approximately $500 million apart in outlays. But I would hope that the amendment of the gentleman might be adopted because it is a moderate amendment, and it is a responsible amendment and will help us hold Defense increases to a reasonable amount. We should at least see whether it actually will work before we go into the production of it. The amendment does not reject the concept.

It is saying that we should be very careful as we proceed with these procurement programs. I am going to appear in the well of the House, and I accept this responsibility, on a great many other programs that are asking for additional money. I respect each of the committees of the House and particularly the chairman and the problems they have and the difficulties they have with the particular responsibilities and the groups that appear before their committees.

This is not true only of the Defense Department. Not at all. The same thing is true of the other programs which I have discussed with the chairmen of the standing committees. They have problems with the veterans' spending and problems with revenue sharing and problems with food stamps. This will repeat itself again and again throughout the year.

What I am asking the House to do is to exercise some restraint. One of the ways in which to exercise some restraint is to support this amendment and also not to add on additional amounts to the bill.

Finally I want to comment on the military pay problem. The Budget Committee voted in support of the President's pay package for defense and nondefense Federal personnel. One of the reasons why I am appearing on this authorization bill—ordinarily we do not because spending comes from the appropriation bill when it is finally passed, but because the pattern of what occurs in the authorization bill here and the authorization committee action on pay will bind the Appropriations Committee's in certain definite ways on total defense spending. Therefore I think it is necessary and important that those of us who are trying to wrestle with all these various spending demands should present them to the Members in a coherent fashion and indicate the dangers of going along with more and more mandatory spending programs.

I would hope the amendment offered by the gentleman would be adopted. I think it is a responsible amendment and I think it is one the House will find will not in any way injure the security of the United States. I hope the amendment will be adopted.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, could the gentleman tell the House upon what basis the Budget Committee decided there was no need for procurement of the B–1 bomber?

Mr. ADAMS. We did not try to interfere with the jurisdiction of the authorizing committee but took instead percentages devoted to production and development of procurement items. We divided those into the percentage increase requested by the President, which was about 23 percent, 7 percent for inflation and between 15 percent and 16 percent for other amendments which provided for an increase. Then we said we would recommend a smaller percentage than that recommended by the President.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. KEMP, and by unanimous consent, Mr. ADAMS was allowed to proceed for 2 additional minutes.)

Mr. ADAMS. Mr. Chairman, I recommended 15 percent and it was rejected. The final amount that was agreed upon by the Budget Committee was on an amendment offered by the gentleman from Florida (Mr. GIBBONS) which recommends about a 20 to 21 percent increase in procurement.

Mr. KEMP. Was thought given in the Budget Committee to the basis for consideration of the B–1 Bomber program, vis-a-vis the Soviet threat to our land based missile system?

Mr. ADAMS. The committee agreed we must maintain our strategic deterrent and we would leave it to this committee to determine which of the particular items to produce in which amount. In other words a package of money was made available and my comment to the Members is we will advocate restraint for all.

Mr. KEMP. As one who also advocates fiscal restraint, I might say that I think this program is a very important part, an essential part of our Triad system for deterring war and it is the most flexible. I wonder what thought the committee gave to this.

Mr. ADAMS. A great deal of thought was given to the total strategy of deterrent. The debate whether to build 30 additional antiballistic missiles for the Trident or to build the B–1 now or go with the cruise missile coupled with a standoff bomber was considered but not debated at length because we felt an ample amount of money was available in the resolution to allow the House to select and decide which one was most important to start at this time. A number of us who are familiar with those programs also are aware we have until the 1980's to determine what type of new strategic approach should be made.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, about 6 weeks ago, former Secretary Schlesinger attended a seminar that a group of us organized here. We had a very lively discussion about this subject. He said he personally was not convinced that the B–1 was the best alternative for the follow-on to the B–52 as a part of the Triad. When we get right down to it, the only argument for the manned bomber phase of the Triad that has ever made any sense to me is that it immensely complicates any effort by the Soviet Union to launch a first strike. That effort will be just as much complicated with the B–52 throughout this next decade and the FB–111 which is supersonic and which, unlike the B–1, can fly supersonic at low altitude, as it will by the B–1, because if only a fraction of the force gets through, there is still the possibility of enormous destruction in the Soviet Union; so that part of the Triad will remain operational for at least the next decade, whether or not we go to the B–1 or other alternatives such as air launch missiles.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has again expired.

(At the request of Mr. MCDONALD of Georgia, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. McDONALD of Georgia. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Georgia.

Mr. McDONALD of Georgia. Mr. Chairman, I would like to point out, the Triad leap is not an independent item, but rather is a synergistic approach. We cannot isolate one section of the Triad by itself.

The gentleman from Idaho brings up an interesting point about what consideration the Budget Committee gave in determining the adequacy of our defense. In other words, did the Budget Committee take into account the number of current Soviet Backfire bombers now deployed in striking position?

Mr. ADAMS. The Budget Committee did not debate the individual weapons systems, but the total amount of money applicable to the defense function and other programs. In the resolution we are holding the domestic functions at about a 5-percent increase or below. This defense function in procurement had a 23-percent increase and we were dealing with that problem.

Now, I can debate with the gentleman the merits of the various weapons systems as an individual because I happen to have some familiarity with aircraft systems, the Triad, the Russian aircraft. I have talked with Secretarys Schlesinger and Rumsfeld and we have differences of opinion on many items. We all have agreed on the Triad approach, however. In my opinion, we are the No. 1 power in the world at the present time. I think we are very capable of handling the Soviet threat.

I also think we should continue to develop our strategic force, but not try to buy everything this year.

If the gentleman wants to debate the merits of it, I would be happy to discuss that; but I am stating precisely what the Budget Committee debate was, which was to exercise some restraint in the growth here, not cut it back, not inhibit it, but just not let it have all the money that the proponents want.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has again expired.

(At the request of Mr. RANDALL, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Chairman, I came on the floor and when I arrived on the floor I heard the gentleman from Washington say that the Budget Committee was not involving itself in the weapons process at all.

Mr. ADAMS. That is correct.

Mr. RANDALL. In the debating process?

Mr. ADAMS. That is correct.

Mr. RANDALL. Is the gentleman appearing or offering the amendment against the B–1 on behalf of the committee or is the gentleman appearing as an individual Member of Congress, or in what capacity?

Mr. ADAMS. I did not offer the amendment.

Mr. RANDALL. I understand that.

Mr. ADAMS. I am supporting the amendment as an individual Member of Congress, certainly.

I might state to the gentleman that that is all this Member ever does in the well.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I think it is very important to stress that the Budget Committee has not taken a position for or against the B–1 bomber.

Mr. ADAMS. That is correct.

Mr. GIAIMO. I think it is important to stress that our Budget Committee felt because of the restraints and constraints in the other portions of the budget, there ought to be reasonable constraints and restraints in the Defense Department budget.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has again expired.

(At the request of Mr. GIAIMO, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. GIAIMO. Mr. Chairman, will the gentleman yield further?

Mr. ADAMS. I yield to the gentleman from Connecticut.

Mr. GIAIMO. We felt that the Defense Department should seek to restrain its spending and its procurement; but we in the Budget Committee did not speak in favor or against the B–1, for or against the Trident, for or against additional missiles, and so forth.

But, there should be efforts to restrain the budget, and a 15- or 16- or 21-percent increase in a budget is unconscionable in this year of necessary restraints.

Mr. ADAMS. The gentleman is correct, and I might state that the same thing has occurred and will occur in the foreign aid authorization and many of the other functions. When the Members see the budget resolution, they will, I am sure, feel that it is very difficult to still have a deficit, as we do, and that we must have restraint in all of the various areas of the budget. This area happens to be one that has less restraint than any other.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(On request of Mr. CHARLES H. WILSON of California and by unanimous consent Mr. ADAMS was allowed to proceed for 2 additional minutes.)

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. What does the gentleman think of deferring the AWACS program in order to help the budget process?

Mr. ADAMS. I have not addressed that issue yet. It has not been presented on the floor, so I do not know what the various merits of the proposal are going to be.

Mr. CHARLES H. WILSON of California. We are talking about programs that might help the budget process, and the gentleman has taken it upon himself to come down and support the Seiberling amendment. There must be other programs that might be less important to the country than the B–1 bomber is.

Mr. ADAMS. There may well be, but we must address each amendment on its merits. In the ship area there are great nuclear ship increases which should be controlled. All I am saying is that in all of these procurement areas we are allocating a huge new amount. We are going to spend by a tremendous amount, and I think we should exercise restraint because when the various appropriations come from the Appropriations Committee they must have divided the money that is going to be spent in each functional category. I did not want to appear at that later point with all these programs locked in and not having said something on this floor about the total budgetary problems we are going to face in trying to lower the budget deficit by about a third.

Mr. CHARLES H. WILSON of California. I think the gentleman makes a mistake, as chairman of the Budget Committee, to come down and participate in debate involving individual programs of this type. He is hurting the budget proposal act, and I think he is inviting further opposition to the whole budget control system by so doing.

Mr. ADAMS. I understand the gentleman's position.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, members of the committee, I rise in opposition to this amendment. We have delayed proceeding to production of the B–1 bomber long enough. The Air Force has been studying the requirement for a follow-on manned bomber for 15 years, and in the course of that study the performance specifications of speed, of altitude, of range, of weapon capacity, of electronic countermeasures, of bomb navigation systems, and all other parts that make up this system have all been defined, specifically defined.

The B–1 bomber meets the specifications. The B–1 has been under development for the last 6 years. During that time, the Air Force and its contractors have been demonstrating in the laboratory, in the factory, and finally in the air that the B–1 bomber will do the job that is demanded of it. In the areas that really count for an aircraft, the aircraft structural integrity, the engine performance, the B–1 has lived up to every expectation.

From this standpoint, there is no doubt that the aircraft is ready in this Bicentennial year for production. From the cost standpoint, the B–1 is also ready. The Air Force has achieved its goal of all program managers in the cost area. Further, a delay in the program at this time, a start, stop, start, stop delay, will only increase the cost.

Engineers from my district advise me me that a delay that would be precipitated by the adoption of this amendment would cost an additional $1.2 billion in cost that would be incurred by delayed construction.

From the standpoint of need, the production of the B–1 is required at this time. Our current heavy bomber, the B–52, we all know is 20 years old. We all know that the B–52 was produced from

technology that was developed in the 1940's and the 1950's. The B–52 is slow. It is easily seen by enemy targets. The time it requires to launch it is relatively long. It has limited low-altitude, terrain-following maneuverability. In today's environment, with current capability of potential adversaries, the B–52 is adequate. But for the environment projected for the 1980's the B–1 is needed, and the need is increasing daily with the development of missile weaponry.

The advancing Soviet capability dictates that the B–1 must be produced now. The substantial Soviet submarine-launched ballistic missile capability must be taken into account in planning the launch of a bomber force. Where we were dealing in minutes with the B–52's, we are now dealing in seconds when we are planning a launch against a missile capability.

The Soviet homeland defense is already dense and is becoming more sophisticated and more capable all the time. This trend is expected to continue and is not a subject of discussion in current arms limitation talks.

The B–1 will be able to defeat these defenses projected for the 1980's and beyond.

The target structures in the Soviet Union are growing and being made increasingly resistant to all but most accurate weapons. The B–1 will be able to deliver weapons with the accuracy required to meet these targets and to defeat and to destroy these targets.

In summary, Mr. Chairman, the B–1 meets the stringent requirement for a new manned bomber. A decision is required now. The B–52 is growing old and the Soviet defensive capability is increasing. Without the B–1, our ability to deter nuclear war will be in question. With it, we have the best deterrent capability available.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin (Mr. ASPIN).

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

(On request of Mr. ASPIN and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman in the well (Mr. ALEXANDER) this question:

The gentleman knows that the production decision has not yet been made, but the gentleman sounds as if it has already been made or he sounds as if the Congress should be making it here and now.

The administration has said and the Defense Department has said they are not going to make the decision before November 1976. We have this budget on the floor here in April 1976. The gentleman in the well says that we should proceed and go ahead and make the production decision now. But the administration is saying they have not got the information, at least they are telling the Congress they have not got the information to proceed with the decision now. Why should the Congress make the decision now, rather than wait for the information and do it at the same time the administration does?

Mr. ALEXANDER. It is commonly alleged that the Department of Defense is asking Congress to make a production decision at this time. But this is not true. The Department has made an explicit commitment to acquire the B–1 and has transmitted that decision to the Congress

Funds for the production program are included in the fiscal 1977 and out year budgets, and by its context the decision to produce the B–1 bomber has been made. It has now been made, but we must affirm it in the Congress.

Mr. ASPIN. Mr. Chairman, the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) does not, of course, cut out the money for the B–1 bomber, which is, I think, the good thing about the amendment that the gentleman has offered.

All the gentleman from Ohio is saying is that no money in the budget that we agree to, starting next year in October, shall be expended until the President certifies to Congress that the plane is needed and Congress has a chance to look at it and certifies that the B–1 bomber is needed as our new plane.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I know that a good deal of the opposition to the B–1 is based on the belief that there are more practicable, less costly alternatives to it. Recently, the Brookings Institution published a report entitled "Modernizing the Strategic Bomber Force" that proposes to phase out the only combat-tested leg of the Triad—the strategic bomber.

Brookings recommends instead to augment our land-based and sea-based ballistic missile forces with wide body transport airplanes used to launch standoff cruise missiles.

At first glance, this report appears to tell a pretty good story. At second glance, the story begins to crumble, and the third glance shows the report to be shallow, inaccurate, and downright misleading.

Perhaps the only thing right about this report is that the authors open with the recognition that the strategic bomber force is an important part of our military capability, and close by agreeing that there is a need to modernize the U.S. bomber force. The method of modernizing the force and the manner in which they arrived at their conclusion is where I take issue.

The report is full of simple assumptions compounded by incorrect and inconsistent analysis. The authors theorized alternative bomber or cruise missile forces structured just to attack the 50 largest cities in the Soviet Union which they said contained about one-third the population and three-fourths the industry. They failed to point out that over the years the Soviets have been locating their major industrial complexes away from the big cities.

Fact: One must destroy over 370 cities—not 50—to accomplish their goals.

Fact: Eleven of the 50 presumed target cities could not be reached by the 1,500-nautical-mile cruise missiles that they postulated, if the wide body transports launched their loads outside of defenses taking care not to penetrate countries like Red China or Syria after launch.

Fact: The intense Soviet civil defense effort—$1 billion per year, and 50,000 CD professionals—is designed to empty their cities of people. The Soviets, however, cannot hide their industrial complexes, their armies, and air bases and many of their political and economic centers that make far better targets.

The Brookings people relegate bombers to a backup role in the event ballistic missiles fail, but they turn around and say ballistic missiles must not fail so that they can be used to suppress the surface-to-air missile sites. If those SAM sites were not suppressed, their cruise missile approach would fail. But, the authors do not state this.

They say there is no threat to the B–52 forces, but when threats appear they propose to replace penetrating B–52's with the alternative shown to be most vulnerable to both launch and penetration threats—the standoff cruise missile force.

The mathematical model used to prove their points automatically credits forces of many cruise missiles with a better chance to penetrate than smaller bomber forces. Thus, they knew what the outcome would be before they did the calculations.

Further, one of the authors appeared before the Armed Services Committee on April 17, 1975, and presented a cruise missile alternative to the B–1 long before the study was completed. I wonder if he did not start with the conclusions and tailor the analysis to support these conclusions.

They made the cruise missile seem much better than our current technology permits in speed and range. A first look at the authors' missile shows it would weigh about twice as much as they said, to reach a range of 1,500 nautical miles and would fly about 30 percent slower than they estimated.

Although they admit it is cheaper to keep aircraft on ground alert, they arbitrarily increased crew reaction times well beyond those which the Strategic Air Command has tested and proven can be sustained. With the authors' long reaction times, they were forced to place the B–1 force on a high state of ground alert at many more bases than the B–1 will actually need. One of the cruise missile forces even had to be placed into more costly airborne alert for survival—just because they assumed incorrect crew reaction times.

They drew no distinction between an unmanned 18-foot cruise missile or a 150-foot airplane with four men aboard. Penetrator characteristics were not important—all penetrators were assumed to look identical to the Soviet air defenses,

even though a B-52 radar signature is about 20 times larger than a B-1.

They allowed high performance interceptors to shoot down numerous penetrating bombers, but failed to even consider what mobile anticraft missiles might do to their cruise missiles.

Although this country has proven the value of electronic countermeasures in two conventional conflicts, the Brookings authors totally ignore ECM on bombers—yet allowed armed decoys to have effective ECM.

If they had used the short-range attack missile—SRAM—for suppression of SAM sites, the B-1 force would have been more effective than the standoff cruise missile force in nearly every scenario one could consider. Ladies and gentlemen, the reason this country bought the SRAM missile was to attack SAM sites and their defended targets. Yet the authors failed to understand or acknowledge that well-known fact.

The authors said the B-1 force would need a new tanker, yet the KC-135—our current tanker—is having its wings modified to extend its lifetime. This tanker will still be effective for our bomber force well beyond the year 2000—and the B-1 test aircraft is refueling from one nearly every time it flies.

They also charged the B-1 with $2 billion worth of SRAM and SCAD the DOD does not plan to procure, and about 60 more air bases than the B-1 force will operate from. The total cost of these unnecessary charges exceeds 8 billion in 1976 dollars.

The authors assumed their preferred force of wide body transports would go into airborne alert during a crisis situation with over one-half the airplanes continuously airborne. But they failed to provide adequate maintenance and aircrew manpower to do that. Just in personnel costs alone they undercosted this airborne alert force by nearly $2 billion—for a 10-year period. Further compounding the exorbitant costs charged to bombers, they included a cost equal to the strategic control and surveillance function and charged the total amount to bomber forces. Even if there were no bombers, we would still have to command our other strategic forces and provide them with reconnaissance information. Thus it was patently unfair to charge these costs to bombers.

In conclusion, I remind my colleagues that the Department of Defense has performed an in-depth study of alternatives to the B-1—a study which took some 40 man-years and over 6,000 hours of computer time—which unequivocally supports the B-1 as the most cost effective alternative. The GAO has performed an in-depth review of the DOD study and has provided support for the conclusion that the B-1 is the best alternative we have. B-52 modifications as extensive as $40 million per airplane have been assessed; stretched FB-111's that cannot even reach the penetration point without refueling have been examined. And might I remind my colleagues that these alternatives are paper airplanes, not in flight test like the B-1's. Even using their preliminary estimates which our experience tells us is always better than final performance, none of the alternatives compare to the B-1 in cost-effectiveness and flexibility.

Standoff cruise missiles also have been examined and found wanting. They can not even penetrate the lowest cost defense the Soviets could mount—surface-to-air missiles similar to the defense the Soviets have widely deployed today.

The Brookings study proposed penetrating bombers or cruise missiles, but the best strategy is clearly a mix of cruise missiles and penetrating bombers. Carried by B-52's, cruise missiles can attack many undefended targets, reduce the requirement for aerial refueling for their carriers, and improve bomber survival. The B-1 force can then be used to attack the more heavily defended areas with the short-range attack missile.

I believe that the B-1 is essential to our security in view of the massive Soviet strategic buildup taking place today. I believe the DOD has proven that it is the most cost effective alternative with the greatest flexibility. Combined with our current force of bombers, it will contribute well over half of our striking power, it provides a hedge against failure of any single leg of the Triad, and it provides the necessary compliment to our ballistic missiles to deter nuclear war.

For 8 years we have studied and restudied the B-1. This has been done on the basis of information provided by the Department of Defense, and it is not unprecedented that information provided by a sponsoring agency could be tainted by self-interest.

We are now at the point where it is "go" or "no-go" and we have the added advantage of analysis by two non-Defense related studies.

I believe we have established that the Brookings Institute study is based on preconceived ideas, on false assumptions, and on outdated, incorrect and incomplete data.

Now comes the General Accounting Office, an organization which has never, to my knowledge, been accused of phonying the facts. Their findings are based on performance and cost, and are not colored by considerations of philosophy. The GAO is Congress' own independent auditing agency, and in its assessment it supports the findings of DOD.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. DAN DANIEL) has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. DAN DANIEL was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I just want to commend the gentleman for his presentation on this issue and particularly for the rather dramatic way in which he has presented the facts.

I think he has pointed out the key to the error contained in the Brookings study.

Is it not true that the Brookings study was only able to show a smaller cost for the cruise missile system as compared to the B-1 by providing actually for fewer weapons; and that in terms of the total number of weapons, the B-1 is a far more cost-effective solution? So, if we do not want to have as many weapons available for the target, then, of course, we can always save money. But the individual cost per weapon of the cruise missile approach is greater than the per weapon cost of the B-1 approach. Is that not the fact?

Mr. DAN DANIEL. I think the gentleman is absolutely correct. There are so many deficiencies in this study that I would hesitate to single out any one.

Mr. STRATTON. If the gentleman will yield further, the Brookings name, of course, carries a lot of prestige; but when it is pointed out, as the gentleman from Virginia has done, that there is a serious loophole in the Brookings argument, then it loses a great deal of its effectiveness.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman.

Let me suggest that if we seek something similar or analogous in the animal kingdom, the Israeli troops, whose survival depended upon them, would more likely describe the C-5A as a valued beast of burden.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I do not know where the gentleman got his copy of the preliminary draft of the "Dear Colleague" letter which he read from, but that was not the letter that was actually sent out. The actual letter does not contain some of the language read by the gentleman.

Let me just say that the amendment I have offered is not based on the Brookings study. The Brookings study estimated that alternatives to the B-1 would save about $10 billion, as I recall. But the issue raised by our amendment is not whether we should or should not have a B-1.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. DAN DANIEL) has again expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. DAN DANIEL was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield further?

Mr. DAN DANIEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Our amendment is based on the GAO study which just came out last month and which, in essence, simply says that we should follow the policy of fly-before-you-buy and that the necessary flight testing and static testing and other tests, which the Air Force itself agreed to make before a production decision, have not been completed.

Mr. DAN DANIEL. The GAO likewise determined that the B-1 was the most cost-effective system, and that is what we are really talking about.

Mr. SEIBERLING. I do not think that the GAO study passed on that one way or the other.

The one to which I am referring merely said that Congress cannot make a production decision now based on the results of testing because the testing has not been completed.

Mr. DAN DANIEL. Mr. Chairman, in conclusion, my daddy used to say that if one wanted to know whether something is good for you look at who is against it.

Our colleague, the gentleman from Oklahoma (Mr. RISENHOOVER) says that Mr. Brezhnev is against the B–1.

Mr. WHITEHURST. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

Mr. Chairman, I just want to bring some points to the attention of my colleagues with reference to the GAO report.

First of all, the GAO has cited some problems with the B–1 test program. It is true that they have uncovered some problems, but they are not of such a nature that would preclude the effective employment of the B–1 on schedule.

This aircraft has been under design and test for 6 years. There has been more preproduction planning and testing for this aircraft than on any other aircraft, military or civilian, that has ever been developed. The test program has been carefully defined and is presently being carried out.

Now, Mr. Chairman, let us go to the issues.

The GAO contends that the B–1 is experiencing buffeting and vibration problems. The Air Force has delineated corrective action for these problems and plans to solve them with simple corrective actions such as shock mounting equipment and changing locations to eliminate detrimental effects.

The GAO identified a problem related to the loss of an engine compartment door and this has been corrected by stiffening the door. The corrective action has been proven on repeated flights.

The GAO contends that the engine fuel consumption and weight requirements will not be met. The specific fuel consumption is higher than specified by about 5 percent and the weight is about 2½ percent over specifications. The combined effect will not interfere with mission accomplishment.

As I stated earlier, the B–1 testing to date has been far more extensive than for any other aircraft development program at a comparable point in time. Structural element testing, both static and fatigue, have been accomplished for the 6,204 structural elements. Eight major structural components have been subjected to static loading to 150 percent of the loads expected in flight.

Wind tunnel testing on the B–1 spans over 5 years in 17 tunnels for a total of 22,000 hours.

The engine preliminary flight readiness test was completed in March 1974. There have been over 8,500 hours of engine operation, 7,000 development test hours and over 1,500 prototype engine hours.

The flight test accomplishments to date indicate the B–1 is meeting or exceeding its flight test goals. There have been multi-refuelings with the KC–135. the aircraft has flown over 5 hours of supersonic time at altitudes up to 50,000 feet and speeds up to 1.9 mach.

In conclusion, Mr. Chairman, the B–1 is experiencing normal, technical development problems. The problems have been identified and can be resolved. The B–1 is meeting or exceeding its flight test requirements. The funds requested for procurement are for fiscal year 1977. Between now and that date even more flight tests will be conducted.

The B–1 will satisfy all of the mission requirements delineated in 1970.

Finally, Mr. Chairman, deferral of the B–1 program adds approximately $1 billion per year to its cost and therefore to delay the development of the program is not a fiscally sound move.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, the gentleman made the statement that delay of the program will cost $1 billion per year. Certainly, the high cost of delay is one sound reason for defeating this amendment. An equally important reason for defeating the amendment is the fact that we need this program to meet our national security requirements in the next decade. If we do not begin procurement of the B–1 bomber now, we will enter the 1980's increasingly vulnerable to a Soviet threat that will, according to every reputable study including that done by the Library of Congress, be maximized by 1981, 1982, and 1983. If we keep delaying the M–1 program, which is the purpose of this amendment, we will seriously jeopardize a leg of our Triad for that critical time period.

Mr. WHITEHURST. The gentleman is correct; 1983 is the date.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. WHITEHURST was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Is the gentleman aware that in 1961 the new administration scrapped the B–58 program after it was started because the new administration took a different view as to what our defense needs were? Is the gentleman also aware that the XB–70 was scrapped after the test program and the expenditure of $1 billion because it became clear that it would have been a sitting duck? Should we not give the next administration at least the option of looking at the test results, which have not been completed yet, and making a decision based upon them?

Mr. WHITEHURST. I will say to the gentleman, first of all, the plane was operational at that time.

I am also aware of the fact that Mr. McNamara, who was the Secretary of Defense, had no faith in the manned bomber. Despite the outcome of the events in Southeast Asia, I believe the B–52 proved to be a very potent weapon in that war, and I happen to believe also that in the closing phase of that war, it was decisive in bringing about that phase as the closing phase.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHNSON of Colorado, and by unanimous consent, Mr. WHITEHURST was allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

There has been a figure tossed around here that it will cost an additional $1 billion if this $1 billion is delayed in our commitment here. That figure has not been substantiated, as far as I am concerned. I do not understand why, if we delay approximately $1 billion for a year, it is going to cost us an additional $1 billion.

The gentleman says this is going to mean a doubling of the cost. I think that should be verified.

Mr. WHITEHURST. That is true, because when the program is slowed down, people are laid off, and then they have got to rehire people. If they do this, it is going to escalate the cost of the aircraft.

Mr. JOHNSON of Colorado. So that the gentleman says to build those three airplanes is going to cost $2 billion next year rather than $1 billion now? That is what we are talking about—three aircraft—is it not?

Mr. WHITEHURST. I am saying we are adding $1 billion to the total cost of the program.

Mr. JOHNSON of Colorado. The gentleman means for three aircraft?

Mr. WHITEHURST. That is what is involved.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. LLOYD of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have heard and will continue to hear in this and other areas of national defense opposition to certain specific programs.

I firmly believe that the B–1 is a necessary component of our defense dollars in the area of strategic weapons delivery. I believe that because I think it is a quantum jump over the current weapons system, which is the B–52 in conjunction with the submarines and the missiles. I think we cannot effectively use one without the other for the simple reason that that is the way the system is designed. Of course, we can design a system with only two systems in mutual support. That is perfectly all right, and we can do it with four; but the fact remains that our military institution has recommended that it be three. We are established with that.

To make a change now would be very debilitating, if for no other reason than the moneys which would have to go into

these new systems. Beyond that, the B–1 is way beyond the decision point.

I know that I, too, have argued and said it does not make any difference if a weapons system has already gone this far, if it is no good, let us eliminate it. The Members have heard me say that right on this floor, and if I firmly believe that that weapons system is going to fail fundamentally as an aircraft, fundamentally as a weapons delivery system, fundamentally as an integral function of the Triad, then indeed I would say to the Members with no hesitation let us knock it off; let us back off. We are taking too many dollars already from other programs which I personally consider very essential—and I have already mentioned those such as food, health, shelter, education, and things of that nature. But I feel, as many others do, and perhaps for different reasons, that this is an essential weapons system.

We have talked about the weapons system and have said it has not been performing according to standards set. Let me assure the Members, as a person who has done test flying, there is no aviator ever who has said that an airframe is going to perform the way they designed it and to lock it in and to go from there. I defy anyone to show me any weapons system that has gone that way. With any aircraft we are going to have problems developing the basic plane.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I respect my colleague's opinions very much but I am concerned because I think we are being asked in April to make a decision to approve $960 billion for a buy of the B–1 when the Air Force itself says it will not finish testing or make its decision for production until November of this year. I am concerned. If they cannot make their decision until November, we should not make our decision now.

Mr. LLOYD of California. Would the gentleman tell me the Air Force is not in any way committed to the buy of the B–1?

Mr. EVANS of Colorado. I would have to defer to the gentleman from Ohio on that.

Mr. LLOYD of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the Air Force has yet to make a decision as to what the plane is going to be. The General Accounting Office report says there are some very serious structural deficiencies.

Mr. LLOYD of California. Does the gentleman believe our Air Force has not made its decision as to what the Air Force is going to buy?

Mr. SEIBERLING. How do they know what the design is going to be?

Mr. LLOYD of California. I know what the design is going to be because I have gone to Edwards and I sat in the cockpit and there is no question there will be modifications, but they will represent less than one-half of 1 percent. The gentleman knows it and I know it.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I have given very serious study to this question and I respect the opinions of my colleague, the gentleman from California. After reviewing the Brookings study and speaking to representatives of the Air Force I am convinced the B–1 is an essential part of our Triad defense and I support the concept, but my concern is the same as that of the gentleman from Colorado.

Why should we make a procurement decision now rather than waiting until this period of complete testing has been done? I would not be in favor of eliminating the program but would it not be fiscally responsible to wait until the tests are in before we go ahead on procurement?

Mr. LLOYD of California. No. The reason for the amendment fundamentally is so we can stretch it out far enough—and with this maybe my colleague may not agree—but the reason that the amendment was introduced was to stretch it out far enough so we could get a good shot at it to take it out. If we take this out, my point is we have to question the whole Triad system because we have the question arise then on the missiles and so forth. We have the test vehicles, we have had three of them, two of them are flying and one of them is being used to establish static test results.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. ASPIN and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, the gentleman said that the Air Force has decided and I am sure the predominance of opinion in the Air Force is they want the B–1 and they have no question they want it, and they have wanted it ever since they began, but the question is: Does the Defense Department want to go ahead with the B–1? And I think we ought to give them the benefit of the doubt when they say they are going to make their decision in November.

Mr. LLOYD of California. I am glad my colleague brought that up because I spoke to a gentleman from the Defense Department who has been in the news lately and Dr. Currie told me that they do indeed want the B–1 program.

Mr. ASPIN. If the gentleman will yield further, the point about all of these decision points in the Pentagon was that we were going to try to start a system of "fly before you buy." Under the "fly before you buy" concept which was begun some time ago the thought was we would fully test the plane as a prototype before the decision was made to go ahead and buy it. Here we are being asked to buy this plane and we are being asked to do this in April when the thing will not be fully tested until later.

The amendment offered by the gentleman from Ohio does not take out the money. All it says is: "Let us not make the production decision until we go ahead and test it completely."

That is the purpose of "fly before you buy," because the full concept of the thing was to prevent procurement disasters when they went ahead into procurement right after R. & D. before they had any chance of disaster.

Mr. LLOYD of California. I understand what the gentleman is saying. It so happens that I agree wholeheartedly; however, it turns out the economics of development of the weapons system change in the planning area and everywhere along the line.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. BEDELL, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 1 additional minute.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I have some trouble with my colleague's position. The question I have, first of all, the gentleman said, indeed, if it was found that this airplane was not something we should have that the gentleman would be the first to vote against it. Do I understand correctly or do I understand incorrectly that it has not been completely tested yet and the tests are not all completed?

Mr. LLOYD of California. The tests have not been completed.

Mr. BEDELL. If they have not been completed, is it not true there is some possibility as they continue those tests we might find something wrong with this airplane which would cause the gentleman to believe it should not be continued and the gentleman would agree that we should not go ahead with it; am I correct?

Mr. LLOYD of California. The gentleman is incorrect, because they have not found any major discrepancy. It was alluded that there was a similarity in our "Dear Colleague" letter between this and the C–5. That was, frankly, very misleading and, frankly, very false, because the C–5 is not a corollary to the B–1.

The CHAIRMAN. The time of the gentleman from California (Mr. LLOYD) has again expired.

(At the request of Mr. HILLIS, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for an additional 2 minutes.)

Mr. LLOYD of California. Mr. Chairman, if I may just continue my thought, the C–5 in no way is a corollary to the B–1. The B–1 in its test has met every test and exceeded it, just as the A–10 did. We have a little thing regarding the A–10. They say it is no good, that it was a Mickey Mouse, but it more than exceeded its expectations in the tests. Personally, even when I was antagonistic, I never said anything about the A–10, because that was a faulty issue.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I thank the gentleman for yielding. Is it not a fact that the GAO information brought out that was based on information that was compiled last fall?

Mr. LLOYD of California. That is absolutely right.

Mr. HILLIS. Is it not a fact that the gentleman knows that the points have been corrected or proved to be erroneous in further testing that has taken place?

Mr. LLOYD of California. Yes. All the variables carried the indication they can make those small changes that are necessary. There are conceptions. It is a compromise, an airplane is a total compromise between speed, weight-carrying capacity; every time they add a pound, they have to add another pound just merely for the structural members which they carry. They have two pounds and take up another two pounds to support the structural members. It is a compromise.

Mr. HILLIS. Has not the performance been excellent to this point?

Mr. LLOYD of California. Not only excellent, but they exceeded the test requirements.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Virginia.

Mr. WHITEHURST. When was testing supposed to be completed, October or November?

Mr. LLOYD of California. October or November this year.

Mr. WHITEHURST. The authorization we are talking about today really does not begin until that time?

Mr. LLOYD of California. That is correct.

Mr. WHITEHURST. So what is all the worry about the money being spent ahead of time? If they develop some kind of flaw, which none of us anticipate, then the money is not going to be spent.

The CHAIRMAN. The time of the gentleman from California (Mr. LLOYD) has again expired.

(At the request of Mr. ROBERT W. DANIEL, Jr., and by unanimous consent, Mr. LLOYD of California was allowed to proceed for an additional 2 minutes.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to my colleague, the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I will say, the gentleman from California (Mr. LLOYD) brings to this whole discussion the same expertise and great knowledge of military matters as a former military and test pilot that he has brought to our committee, experience that has been most valuable to us.

Could the gentleman draw on this expertise to clarify something that dumbfounds me, part of what is offered as an alternative to the B-1: this would be the wide body jet equipped with cruise missiles which would be launched off the periphery of the Soviet Union, which is heavily defended against such cruise missiles.

Mr. LLOYD of California. That is correct, they are. Let me add, I believe they were considering the 747, I do not know what was; but just to take that off the shelf, that aircraft would cost roughly $40 million.

Then, to militarize that airplane which cost originally, say, $50 million, and we have not even yet put the cruise missiles in it, then we have a system which is a subsonic system which suffers from the same problems the B-52 does. In that context, frankly, I would rather start and build more B-52's.

Mr. ROBERT W. DANIEL, JR. That is an excellent point. Let us go further than that and say that, if these target areas are so heavily defended with surface-to-air missiles, then ICBM strikes would be required to suppress these missiles and assure the penetration of the cruise missiles. The reason we are going to need the manned bomber system is that it is a fallback in case our ICBM's are destroyed in a first strike. How can something that may have been destroyed suppress defense so as to permit the entry of cruise missiles into the target area?

Mr. LLOYD of California. The point is well taken. It once again demonstrates that this is an integration of two other systems.

Mr. DOWNEY of New York. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from California has said that the B-1 has met every specification. Let me just read something:

As a result of the first 119 hours of tests—

And remember, 345 hours are scheduled on all three planes—

the following degradation of the Air Force specifications for the B-1 has occured:

(a) Supersonic speed is reduced from mach 2.2 to mach 1.6, a 37 percent reduction. The B-1 is supersonic only at high altitude and subsonic at low altitude.

(b) A marked reduction in both subsonic and supersonic range—

The exact figures are classified, but they are substantial:

(c) An 11 percent increase in takeoff gross weight.

(d) A 15 percent increase in takeoff distance.

I could go on at great length about some of the problems later tests have shown. It is not the same plane at all.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from California.

Mr. LLOYD of California. I thank the gentleman for yielding to me. I would respond to my colleague from Ohio by saying that I believe I did make a misstatement when I said "element." I was referring to the accomplishment of a machine, a weapon system.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I rise in support of the amendment to H.R. 12483 offered by the gentleman from Ohio (Mr. SEIBERLING) which would defer expenditure of the money authorized by this bill for procurement of the first three production models of the B-1 bomber until the Air Force and the prime contractor can complete minimum flight testing of the aircraft. At that time, the President could study the final test results and make a determination as to the wisdom of proceeding with the B-1 program. Under the Seiberling amendment, no funds could be spent for B-1 production models until the President certifies to the Congress that he has reviewed the results of the B-1 testing program and regards such expenditure to be in the national interest and until the Congress, after receipt of the President's report, approves such expenditure through passage of a concurrent resolution.

In the past, I have expressed strong reservations about the wisdom and utility of the B-1 program. My concerns on that score remain unchanged. I believe that the B-1 project is excessively costly and of dubious military value. The estimated price tag for the B-1 system is tremendous—over $85 million per plane; over $21 billion for the 244 unit fleet; and over $92 billion during the 30-year life of the program. And its strategic utility stands in question. There is considerable evidence to suggest that there are less expensive and equally effective alternatives to the B-1. The current U.S. bomber force is adequate now, and, according to Defense Secretary Rumsfeld, will remain so into the 1990's. And, in addition, a bomber force carrying standoff missiles would appear to have clear advantages over a penetrating bomber like the B-1 in the modern age.

I believe in spending what is necessary to protect our country from possible attack. However, I am opposed to committing billions of dollars to weapons systems which are of unproven effectiveness and which do not contribute to increasing our national security. We should not discount the fact that our resources are limited, and that a multibillion dollar commitment to the B-1 will necessitate corresponding sacrifices in other vital defense areas and in efforts to meet pressing domestic needs. The American people deserve a meaningful return on such a massive investment.

I realize that many of my colleagues may not share my skepticism about the efficacy of the B-1 bomber. I would only point out to them that the Seiberling amendment does not scrap the B-1 program. It simply delays the production phase to allow the Air Force to complete its testing of the aircraft, currently anticipated by December 1976, and to allow Congress to make an informed judgment on the value of this weapons system. This is particularly important in light of the fact that the B-1 has suffered significant real cost increases with resulting performance decreases over the years and that previous testing has revealed serious engine and structural defects in the aircraft. Also, to proceed with production of the B-1 at this time would make it ex-

tremely difficult to make an objective evaluation of the system in the future after the final test results are available for examination.

Mr. Chairman, I hope that my colleagues will give serious thought to the implications and potential ramifications of precipitous action on the production aspect of the B–1, and vote for the Seiberling amendment.

Mr. DOWNEY of New York. Mr. Chairman, I want to rise and talk about the merits of the airplane for a moment, because we have just been discussing whether or not we should delay it. The question in my mind is not whether or not we should delay it, but further we should build it at all. There is really very little question that the B–1 does fly faster than the B–52. How much faster is a matter that is classified, but I challenge anyone to go in and look at that information. You will be startled by how little faster it goes than the B–52.

How long does the B–1 fly? It flies very low, at treetop level. The B–52 flies low; if not quite at treetop level, it flies a little higher, but it flies low. It is reasonably fast and is capable, as Mr. Rumsfeld pointed out in his posture statement, it—the B–52—is capable of penetrating the Soviet Union and performing its mission.

As to high threat environments, the B–52 does not fly over them and drop gravity bombs. It shoots a SRAM missile.

What has not been mentioned is the fact that in the 1990's the Soviets will have a thing called AWACS, air warning and control system. We have it now, and it is deployed in the Continental United States. The AWACS aircraft is designed to fly around and look down with its radar and vector fighters against enemy aircraft. It is reasonable to assume, certainly, that by the late 1980's and surely by the 1990's the Soviet Union will have an AWACS system similar to our own.

And so what will they do? They will vector Mig–23's against the B–1. The B–1 will be as vulnerable to fighter interceptors as is the B–52. And then what will happen? In 1990, someone will say, "You know, we are going to have to put cruise missiles on the B–1, because it seems as though the Soviet AWACS can pick out our aircraft.

The B–1 has the latest electronic countermeasures. ECM, what does the ECM do? ECM confuses the radar machines, the ground radar and AWACS radar.

What is so sacrosanct about the B–1's EMC? Nothing. It can be put on the B–52. But more importantly, whether it is put on the B–52 or whether it is put on the B–1, it is the crucial test as to whether or not a bomber penetrates the Soviet Union.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. DOWNEY of New York was allowed to proceed for 3 additional minutes.)

Mr. DOWNEY of New York. Mr. Chairman, the question then resolves itself around the very, very touchy question of whether or not electronic countermeasures allow the bomber to penetrate the Soviet air space.

Rather than rely on that very questionable scientific phenomenon, there has been suggested not only in the Brookings study, but by others—and the Brookings study is fraught with problems—that we develop a standoff bomber with cruise missiles which can saturate the Soviet Union if need be, and that the cruise missiles could have, as the B–1 has, a SRAM final stage to penetrate the high threat area. This is reasonable and more importantly, possible.

The question of its cost effectiveness has not been appropriately addressed, in my opinion.

I urge that the committee support the gentleman's amendment, because at this point it is the only alternative for those people who believe very fundamentally that the B–1 is not only not in the Nation's interest but is far too expensive for what we propose to do.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, the cross-section of the B–52 is 20 times larger.

Mr. DOWNEY of New York. And the B–1 can also take off faster.

Mr. LLOYD of California. It gets off the ground in one-third the distance of the B–52.

Mr. DOWNEY of New York. The gentleman is an old pilot. Would the gentleman like to rely as his only penetrating device and electronic countermeasure, when he is not sure the Soviet Union can counter?

Mr. LLOYD of California. I have done precisely that with equipment that was a whale of a lot less effective.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of California. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Chairman, I was intrigued with the argument the gentleman made about the possible effectiveness of the Soviet AWAC system against the B–1. If this is such a good system, and if my memory serves me correctly, why did the gentleman from New York vote to defer our own AWAC system in the committee?

Mr. DOWNEY of New York. What I did was, I deferred the money so we would not be giving it away to our European allies.

My fervent feeling, with respect to AWACS, both in Europe and possibly in the Soviet Union, is that the AWACS would be vulnerable.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it might throw great light on our discussion here if I read this latest news excerpt that has just been received over the wire. This is from the United Press, and it is datelined, Edwards Air Force Base, Calif. It reads as follows:

> The prototype of the B–1, which the Air Force hopes will be the manned bomber of the future, reached almost twice the speed of sound on a test flight Wednesday, the fastest speed achieved to date.
>
> The bomber hit Mach L.9, or 1,255 miles per hour, on a run paralleling the Pacific coast, beginning off the Oregon shoreline and ending off Southern California.
>
> The previous fastest speed, in several months of tests, was 1,070 m.p.h.
>
> The bomber was in the air for seven hours and 31 minutes.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I rise in opposition to the gentleman's amendment to delay production of the B–1 manned strategic bomber, and to express my strong support for H.R. 12348 as reported by the Armed Services Committee. May I first say, I firmly believe that in our actions here today, this body must assure the continuation of a military defense system for the United States that is second to none.

Of particular importance in that regard, is the committee's recommendation to proceed on schedule, without unnecessary and costly delays, in further development and procurement of the B–1 supersonic strategic bomber. Postponement of the decision concerning the B–1 will add significant—and clearly avoidable—extra costs to this vital defense system. The B–1 is absolutely necessary to balance our nuclear deterrent force in the future for the 1980's, and beyond. I urge my colleagues to support full funding authorization for the B–1 program, and to vote down this amendment.

I want to commend the committee, and its able and dedicated chairman, on the responsible procurement and R. & D. spending recommendations that are embodied in this bill. As a former member of the Armed Services Committee, I know all too well the hundreds of hours of hearings and legislative markup sessions that have produced the bill we have before us today. I believe it is a sound, well-balanced authorization for fiscal year 1977 defense programs, and I urge my colleagues' support of the committee's funding recommendations, as reported to the floor.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the chairman of the committee.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair will state that the time will be allocated and he will recognize Members pursuant to the unanimous-consent request at the conclusion of the remarks of the gentleman from Missouri (Mr. ICHORD).

The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, the gentleman from Indiana (Mr. HILLIS) has made one of the points that I intended to make.

Mr. Chairman, I rise in opposition to the Sieberling amendment that would defer expenditure of funds for the B–1 until after February 1977. I do so as one who opposed the B–1 several years ago because I thought we were getting ahead of the estate of the art. But the state of the art is here today. I hope that all of you today recognize that this amendment is just a ploy to ultimately kill the B–1 program.

The author of this amendment, as well as others opposed to the B–1, are now proposing to stretch out this program which will inevitably add dollars to its cost. In the past they have been critical of the program, because of its high cost.

The authors allege that deferral of the funds until after February is in consonance with the Armed Services Committee's "fly-before-buy" policy. May I remind all of you here that the B–1 has been flying for over 1 year now. The B–1 flew yesterday, as the gentleman from Indiana said, its 28th flight during the past year. Yesterday it reached a speed of 1,300 miles per hour or 1.9 mach. This was achieved over the Pacific ocean along the flight path which originated off the coast of Oregon and extended to the southern tip of California. System tests were conducted at altitudes up to 45,000 feet and the supersonic speeds were maintained for 38 minutes during the mission. The other significant test events during the 7½-hour flight included cruise and penetration performance evaluation, acceleration and deceleration performance tests, three aerial refuelings from a KC–135—not an advanced tanker that the critics of the B–1 program allege DOD will build because of the B–1.

Including yesterday's flight test, the two existing B–1 aircraft have completed 147 hours of successful flight testing, 5¾ hours of that time have been at supersonic speeds.

So, Mr. Chairman, the B–1 is flying and, in fact, we are not now at this time buying.

The funds that we propose to authorize for B–1 production are fiscal year 1977 funds. The probability of the B–1 completing its successful test program is extremely high. It is high enough for the Armed Services Committee to want to authorize the funds requested for fiscal year 1977.

The authors of the amendment go on to point out how engine performance, according to the GAO, will not meet initial contract specifications for fuel consumption and weight.

To the average person this sounds like a serious problem, but to those of us who have investigated the real situation, we have found that the fuel consumption exceeds the original specification by 5 percent and the weight increase is some 2½ percent. The authors do not point out that these two insignificant increases have no adverse impact whatsoever on the B–1 mission accomplishment.

The authors of this amendment go on to state how Secretary of Defense Rumsfeld has testified that the B–52 fleet will remain operational until the 1990's. They failed to state, however, that while the B–52 will be operational in 1990, it will be some 30 or more years old and not capable of meeting the threat of that area on its own. The authors do not state how the Department of Defense plans to use the B–52 in conjunction with the B–1 during the 1980 and 1990 timeframe to meet the threat that will confront this country.

Finally the authors go on to criticize the Armed Services Committee for its part in the production of what the authors call "an Air Force debacle like the notorious C–5A transport plane." Nowhere in their "Dear Colleague" letter do they mention the critically important role that the C–5A performed during the Mideast conflict. I wonder if the Israeli's would support the authors' allegation that the C–5A is a debacle. Without question, the C–5A requires a modification to extend its wing life, but without question it has been an aircraft that has proven its worth time and time again.

Mr. Chairman, a vote for this amendment is a vote to add a minimum of $1 billion to the taxpayers obligation during the course of the next few years. Its immediate impact will cause a personnel reduction at the contractors plant, will introduce inefficiencies into the production program, and will extend the gap between the development and production program.

All of the above will then provide my distinguished colleague and other critics of the program with another argument to use next year in their attempt to kill the B–1. They will say that the program costs have risen significantly, but how soon they will forget that they, themselves, caused the increase.

Mr. Chairman, I certainly hope that we recognize this amendment for what it really is—a ploy to kill the B–1—and will soundly defeat this amendment here today.

The CHAIRMAN. Members who were standing at the time the unanimous-consent request to limit debate was agreed to will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I am going to support the Seiberling amendment because I want a good, strong defense.

I think the time of the B–1 bomber has expired. It is an obsolete concept. All of those who have studied the matter know that it is almost impossible, by the time this plane is produced and in service, for it to be able to penetrate the kind of hostile airspace it must go through. It would be far better to try another technique.

Mr. Chairman, the cruise missile looks like a promising system that could penetrate hostile airspace.

I think the next President should be given the opportunity to make that decision.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr LEGGETT).

Mr. LEGGETT. Mr. Chairman, I support the amendment.

The amendment does not kill the B–1 program, but it does insure that the next President of the United States, which might be the existing President, on January 1 next year will have the option to determine whether or not he wants to proceed with this program and Congress will have the option to look at the R. & D. performance.

As has been indicated, the contractors have not met all the tests parameters to date. Maybe they can meet them or maybe they cannot, but let us not make the decision at this time. Let us not make the same error on the B–1 that we did on the F–14. The F–14 was only introduced to the fleet last year and this bill already has multimillion dollars to put a new engine in the airplane.

(By unanimous consent, Mr. BINGHAM yielded his time to Mr. SEIBERLING).

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the gentleman from Missouri (Mr. ICHORD) indicated that I was an opponent of the B–1 in the past.

Let me say that my testimony before the Committee on the Budget makes it quite clear that I support the Triad concept. The question still remains whether the B–1 is the most effective way to do it. At this point I do not know whether it is, and neither does anyone else in the Congress.

Second, I do not know where the gentleman from Missouri (Mr. ICHORD) got the figure of $1 billion in additional costs if we pass this amendment.

The GAO report says that the contractor has had to slow up the production of the fourth bomber, because they do not have enough manpower to produce it. The gentleman's statement makes me wonder whether the Air Force intends to proceed with the production of the next three B–1's in November even if it does not have all the test data. If, as the GAO report indicates, there is little likelihood that the data will be available until after November then the Air Force can not go ahead with this production and still comply with its original agreement in 1974, even if this amendment is not adopted.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, I am somewhat parochial about this matter.

The B–1 bomber is being built and tested in the district which I have the honor to represent.

I have listened to all of these arguments with great interest. There is only one purpose which this amendment has, one and only one, to prolong the argument on the B–1 bomber and to delay it as long as anyone possibly can and then kill it.

Mr. Chairman, I would suggest very strongly to the Members present in this body that we are going to affect employment all over the districts which you have the honor to represent.

Mr. Chairman, I would like to take this opportunity to commend my colleagues on the Armed Services Committee for the fine job they have done on the defense authorization bill for fiscal year 1977.

The committee has authorized a total of $33.4 billion for weapons procurement and research, development, test and evaluation. This represents a 2.13 percent increase over the administration's request, the first time in 8 years that the defense procurement bill has not been subjected to overall cuts from the President's budget request. I am pleased that the committee has authorized end year strength for the Naval Reserve at a level of 102,000 instead of approving the 50,000-man cut requested by the administration. Certainly such a drastic reduction could not serve the best interests of our national defense. The legislation also states in no uncertain terms congressional opposition to phasing out appropriations to support commissaries. It seems almost incredible to me that only 1 year after Congress overwhelmingly disapproved the Department of Defense's plan to phase out funding for the commissaries, the same plan should be proposed anew. This proposal would be grossly unfair to both active duty personnel and retirees. Commissary privileges constitute a traditional part of military compensation and our military personnel had every reason to believe they would enjoy them when they entered the service of our country. It would be a very sad situation if the United States were to go back on its word.

I am most pleased that the full request of $1.5 billion for procurement, research and development of the B–1 bomber has been met. The need, effectiveness and cost of the B–1 has been a matter of some controversy. In February, the Brookings Institution released a report calling for the end of the B–1 bomber program and suggesting that we rely on our aging B–52 fleet to provide our Nation's air defense. I could not imagine a more absurd analysis of this vital issue and I am happy that it received the consideration it deserved.

The development of the B–1 is crucial to the maintenance of our defense capabilities. Our present defense strategy is based on a Triad composed of land-based missiles, sea-launched missiles and manned bombers. The B–1 is intended to modernize the strategic bomber force by replacing the B–52's, some of which are nearly 20 years old. The B–1 is designed to penetrate Soviet airspace below the defensive radar detection threshold and deliver strategic nuclear weapons on selected targets with a high degree of reliability, accuracy and a minimum of collateral damage. In conjunction with sea and land-based delivery systems, it is designed to deter a Soviet first strike.

The B–1, only two-thirds the size of the B–52, is to carry nearly twice the B–52's payload. Its variable geometry wing will enable it to fly at a speed of mach 2.2—2.2 times the speed of sound—at high altitudes, to climb above 50,000 feet, to cruise at mach 0.85 at near treetop level, and permit faster takeoff from shorter runways than those required by the B–52. Its rapid acceleration, short runway requirement, subsystem design and increased resistance to nuclear blast will allow it to reach a safe escape distance from its home base much quicker than the B–52. The shorter runway requirement will enable the B–1 to use 150 more existing runways than are available to the B–52. Furthermore, its ability to attain higher speeds at lower altitudes combined with its small radar cross section and advance electronic countermeasure will give the B–1 far greater ability to penetrate an enemy's defense than existing aircraft.

The cost of the B–1 is high, but what are the alternatives? In May of 1974, the Senate Armed Services Committee requested the Department of Defense to conduct a comprehensive cost-effectiveness study of the B–1 and all other alternatives. The report, submitted to the appropriate congressional committees on December 23, 1974 by Dr. Malcolm Currie, Director of Defense Research and Engineering, examined various options, including refurbished B–52's, stretched FB–111's and wide body transports as standoff cruise missile carriers.

To overhaul the B–52's would cost about $27 million per plane and would not be as cost effective as the B–1. The B–52's would still be, in essence, 20-year-old planes. A stretched FB–111 would mean the development of that aircraft with an extended range. Yet it would only be able to carry about one-half of the B–1 weapons load and would still be range limited. This alternative is only about one-fourth cost effective as the B–1.

The use of a wide-bodied transport to carry standoff air-launched cruise missiles presents a host of problems. It would be less effective than the B–1 in both launch and penetration capabilities, yet the cost, estimated at $50 million a plane, would be comparable to the B–1.

I believe that the Department of Defense and the members of the Armed Services Committee have carefully reviewed and considered the various alternatives to the B–1 and concluded that it is the most cost-effective method of modernizing our strategic bomber force, a conclusion I heartily support.

In addressing the Lancaster, Calif., Chamber of Commerce, Secretary of the Air Force Thomas Reed recently remarked:

> Since the current Soviet leadership took power a decade ago, that nation has embarked on a steady, determined, unchanging drive for military superiority.
>
> Not since the German rearmament in the 1930's has the world seen such a rapid expansion of military capabilities. In the last decade, the Soviets have increased the size of their military establishment by a million men. Their force of intercontinental ballistic missiles has increased more than sevenfold. The number of sea-launched ballistic missiles has grown from only a few to well over 700. The number of Soviet strategic warheads and bombs has jumped 450 per cent.

The Soviet Union, over the past 10 years, has steadily increased its defense spending to the point where that country now spends twice as high a percentage of their GNP on defense as the United States does. Over the same time period our defense budget has been steadily decreasing in constant dollars and as a percentage of the total Federal budget and as a total of our GNP.

The Soviet Union now has more than twice the military manpower we do, nearly four times as many tanks, and their armored personnel carriers outnumber ours two to one. A recent study by the CIA has revealed that Soviet defense spending was 40 percent greater than ours in 1975.

The Soviet threat is real. Moreover, the American people know it. A recent Gallup poll indicated that only 36 percent of those polled felt that defense spending was too high was compared with 44 percent in 1974 while the percentage of those who felt defense spending was too low rose from 12 to 22 percent.

There is good cause for the American people and their elected representatives in Congress to be suspicious of Soviet military buildup. We have the opportunity, with the defense authorization bill for fiscal year 1977, to proceed with a number of sorely needed weapons systems that will put a stop to the trend toward military decline. We must never lose sight of the fact that freedom is the most cherished liberty our democratic form of government bestows on its citizens and it is our Military Establishment which guards that freedom. A defense posture second to none is the only way to guarantee the continuance of those traditions which have made our Nation great for 200 years.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. CLANCY).

Mr. CLANCY. Mr. Chairman, I rise in opposition to the amendment to defer funds for the B–1 bomber. Passage of the intact defense procurement authorization for fiscal year 1977, H.R. 12438, is vital for the continued security of the United States in maintaining an adequate defense position to assure the safety and peace of its citizens. I support full authorization in the amount of $1,482,700,000 for the B–1 bomber of which approximately $1 billion is for production of the aircraft and the remainder for continued engineering development and testing.

Many of my colleagues point to the great social needs here in the United States, and say that money for the B–1 bomber can be better spent in these areas. The principles on which this Nation was founded encourage the development of each individual to his fullest potential and the fostering of a high standard of living for every American. Our Government has spent much time and money assuring the improvement of life in this

country. There has been much progress made in this area, and yet much remains to be done. However, unless the United States of America continues to exist on the principles on which it was founded, all this effort will be lost. To protect these principles means standing for them before the other nations of the world with the strength to back them up. The B–1 bomber is a symbol of our strength, our devotion to our American principles, and if necessary our willingness to fight to protect these ideals.

Working for peaceful purposes through peaceful means is a goal to which I subscribe wholeheartedly, as I am sure do my colleagues here in Congress. We must approach this goal realistically, without the saber rattling that has often preceded major confrontations or conflicts. Being realistic demands a practical assessment of the strength of the other powers with which we hope to achieve understanding. Should the Soviet Union, or any other nation, parley with the United States from a position of greater strength, then dealing with this country at all becomes a concession on the part of the greater nation rather than an effort to gain understanding.

A sound parallel can be drawn between the Nation's need for maintaining strong defense resources and the individual's need for holding insurance. In neither instance does one want to draw upon the security for which it is intended. The homeowner paying premiums for fire and theft insurance will do everything within his power to prevent fire or theft to his home. In like fashion, a nation maintaining a strong defense posture will go to great lengths to avoid the use of its powerful weapons. However, the very holding of insurance by the individual or defense strength by a great nation is a responsible act designed to protect oneself against unanticipated misfortune. To do otherwise is to risk the destruction of security, well-being, and way of life.

Earlier, I referred to the B–1 bomber as a symbol before the world of America's willingness to protect her ideals. Many of you may argue that America cannot afford the luxury of symbols. You have been asked to authorize $1,482,700,000 for the B–1 bomber. For this amount, substantial reasons are in order to justify the spending. I have already stated the need for this Nation to negotiate with foreign nations from a strong position. In addition, the demonstrated capabilities of the B–1 bomber show its superiority in both responsiveness and durability. The cost involved is much more easily justified than modifying existing bombers, since greater results will be achieved in matching the evolving Soviet capabilities. Along with the cruise missile, the B–1 bomber enhances the strategic position of the United States in relation to the Soviet Union, since compliance with the Vladivostok agreement binds the United States to a lesser number of strategic missiles than the U.S.S.R., while allowing a larger bomber force. I do not feel we can afford to overlook these considerations.

ECM encompasses all actions taken to nullify the effective operation of enemy electromagnetic systems and includes both jamming and deception techniques. The goal of ECM is to deny an enemy useful information from his defensive systems to detect, identify, track, and destroy the penetrator.

B–1 defense is based upon the combined effort of its advanced flight characteristics—speed, radar cross section, range, et cetera—and the radio frequency surveillance/electronic countermeasures system—RFS/ECMS.

The B–1 RFS/ECMS is a fully power managed system that will detect, identify, prioritize and jam enemy systems, thus permitting the B–1 to successfully accomplish its intended mission.

The ability of the British in World War II to confuse and degrade German radar nets aroused U.S. interest. Lessons learned in World War II, Korea, and as late as the Vietnam conflict, coupled with the advent of sophisticated weaponry, stressed increased reliance on successful operation of electronic equipment.

B–1 was designed to combat a forecast threat of many years in the future and realistically contained many unknowns.

To insure that when deployed the B–1 would be the most capable and flexible system, the start of defensive avionics equipment was delayed to January 1974: First, to have a better definition of the future threat; second, to minimize any possible changes resulting from the dynamic nature of electronic countermeasures; and third, to decrease associated risk.

B–1 countermeasures equipment will be flight tested on aircraft No. 4 following extensive ground test and integration. Consequently, the complete system would not be installed in the first B–1's. The first B–1's off the production line are used for further testing and crew training, absence of defensive avionics does not pose an operational problem. All aircraft will have defensive equipment at the initial operational capability.

The system is flexible to change with the ever changing enemy threat. This is being accomplished by characteristics in the system that can address changes in the threat by software changes, not hardware changes; and growth potential.

Based on years of experience in upgrading strategic and tactical aircraft, the B–1 defensive avionics development approach represents a careful blend of superior technology, operational needs, cost constraints, and support considerations. The B–1 defensive system is a system designed with the future in mind—aimed at minimizing changes in the future resulting from the dynamic nature of electronic countermeasures.

I urge defeat of this amendment and support of the requested amount for the B–1 bomber.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CLANCY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, many of my colleagues have been targeted as "swing votes" by a pressure group "umbrella organization" known as the National Campaign to Stop the B–1 Bomber. This group is a collection of various individuals and organizations whose immediate goal it is to completely kill the B–1 strategic bomber program and to achieve an overall reduction in the strategic defense posture of the United States using distortions and half-truths.

The composition and approach of the organization is such that there is something for everyone. They raise environmental concerns about the B–1 to those who are proenvironmentalist; they raise cost concerns to those who are fiscal conservatives; they raise military and arms race concerns to those who are prodisarmament.

In the last couple of months or so, arguments against the B–1 bomber have been adapted to follow the line of the recent Brookings Institution study entitled "Modernizing the Strategic Bomber Force" which was financed by the Ford Foundation. This study asserts that a system composed of Boeing 747-type aircraft loaded with air-launched cruise missiles—ALCM—would be more effective and less costly than the B–1. There are several points that I would like to discuss about this:

Mr. Chairman, it is important to understand that both the B–1 and the cruise missile are new strategic developments intended to provide strategic capabilities to the United States in the 1980's time frame. They are both being developed within the numerical constraints of the Vladivostok Agreement wherein the United States agreed to a lower number of strategic missiles than the U.S.S.R., but compensated by a larger U.S. bomber force with commensurate weapon delivery capability of the Soviet Union as exemplified by their development and test of new ICBM's, SLBM's, cruise missiles, and the Backfire strategic bomber.

Actually, the air-launched cruise missile—ALCM—has been designed to be carried primarily by the B–52 and later the B–1 as an aid in penetrating enemy defenses and to strike selected lightly defended targets. As such, it will provide continued B–52 effectiveness into the early 1980's. To ascribe more capability to the ALCM is to ignore the realities of its physical design and development capabilities.

Specifically, the ALCM is designed to fly a preplanned—programed—flight profile at about 200 feet above the terrain. Its basic range is about 650 nautical miles cruising at subsonic speed. Once released from its carrier, the ALCM flies a preplanned flight profile; its survival is predicated on the assumption that all known surface-to-air missiles—SAM—locations have been accounted for in its programing so that it can hide at 200 feet in valleys and natural terrain from enemy radars. It has no electronic countermeasure—ECM—capability to degrade enemy defensive systems, no flexibility to adjust to unknowns after launch, and accordingly, would be vulnerable to mobile SAM's such as the Soviet SA–6. Because of the number that could be carried aboard a penetrating

bomber, however, it will be able to overwhelm the capability of Soviet interceptors.

The role of the B-1 is for penetration and destruction of deep inland targets that are both heavily defended and hardened to withstand all but extremely accurate weapon placement. It has been designed for rapid escape from an airfield under attack. Its reaction time is half that of the B-52 and the aircraft itself is "hardened" against the effects of nuclear explosions. The B-1 will carry the most advanced ECM and other penetration aids to enable it to survive in a hostile environment. Its payload will be almost twice that of the B-52. Also, because it is manned the B-1 can react to unanticipated events, both from a threat situation as well as bomb damage assessment. These are features that cannot be achieved by a cruise missile.

Finally, under current SALT II consideration is the concept that ALCM's will be allowed with the restriction that they be carried only in bombers, and that if 10 or more are carried, the vehicle is to be counted as a MIRVed vehicle.

Now Mr. Chairman, I would like to comment on the Brookings study. The study does not question the importance of an aircraft component in our strategic forces; rather, it quarrels with the composition of the bomber force and the required pace of modernization. The study acknowledges that few alternatives to the bomber are available with which to maintain essential equivalence in numbers of strategic vehicles, and useful payload or throw weight.

One very important aspect of the study is that the authors reject the principle of essential equivalence as a criterion for evaluating our strategic force needs and bomber force needs in particular. They propose, to the contrary, that U.S. strategic nuclear forces should be based on a minimum assured destruction retaliatory mission. They seem to reject any kind of counterforce or damage limiting capability on the part of the United States. Further, bombers are viewed in the Triad context only as a backup to ballistic missiles, so that the least expensive insurance is all that is required. Thus, the narrow view of the Brookings study appears to understate the requirements for effective deterrence and misinterprets the Triad concept.

Concerning the cruise missile alternative to the B-1 bomber, the authors of the Brookings study are overly optimistic about cruise missile performance and they propose the most inappropriate targeting for the ALCM; that is, against high value, terminally defended economic/population centers.

The conclusions of the study are not supported by the body of the study:

A hard, fast aircraft—their label for the B-1—is acknowledged as clearly superior in surviving a surprise attack. But the study tries to dismiss this fact by labeling as "implausible" the response postures that SAC has already demonstrated.

Cruise missiles are acknowledged to be ineffective against terminal SAM's without prior suppression. Further, the study admits that such suppression cannot be assured if SAM's are mobile, and the Soviets have mobile low altitude-capable SAM's.

Ballistic missiles are suggested for the suppression role even though the cruise missile is presented as insurance against failure of ballistic missiles. Furthermore, air-launched ballistic missiles are mentioned for the suppression role even though the 600-kilometer limit on such missiles in the Vladivostok accord is admitted by the study to virtually preclude the use of these missiles for defense suppression.

On a cost per unit basis, the wide-body aircraft/cruise missile carrier preferred by the authors of the study is a more costly alternative than the B-1.

Some areas of factual disagreement with the joint strategic bomber study are:

To exaggerate the cost of the B-1, the study burdens the B-1 with a new tanker fleet on the basis that present KC-135's are being given to our reserve forces. This transfer of KC-135's does not make them unavailable to support bombers nor does the Air Force see a need for new tankers for the B-1.

While a Boeing 747—or similar wide-body plane preferred by the Brookings study—might carry twice the weapon load of a B-1, it also consumes fuel at twice the rate and requires twice the air refueling onload at about the same time in the mission. Thus, a wide-body aircraft is not more efficient in the airborne alert mode as claimed in the study. Finally, such a plane really would require additional tankers for support.

Performance characteristics attributed to the cruise missile are not supported in the DOD testimony referenced by the study and are optimistic.

The penetration analysis model used in this study, contrary to claims by the authors, is known to bias results in favor of cruise missiles. For example, it ignores system characteristics such as speed, altitude, radar cross-section, ECM, and threat handling capacity. It also ignores the dynamic interaction of offensive and defensive forces such as attack timing, defense command and control, and geographical location. When all of this is taken into account, as in the DOD joint strategic bomber study, a system like the B-1 appears to be the most cost-effective.

The study's overall tone tries to have it both ways by suggesting that there is no threat to penetrating bombers in the near future and yet, if there is one, it will be more readily accommodated by relying on an alternate system of standoff ALCM's.

Furthermore, these 747 aircraft loaded with cruise missiles would be a prize target for long-range interceptors, which the Soviets possess, as they would have to come very close to the Soviet border before launching the cruise missiles. The survivability of the 747-type aircraft under these conditions would be highly questionable.

I would also like to make the point that it strikes me interesting that just a few months—or even weeks ago—many of the same people who are advocating this cruise missile/747 system were saying that cruise missiles were destabilizing, would aggravate the arms race, and would disrupt the SALT negotiations because they are unverifiable. So this is an interesting turnaround. The cruise missile was once bad, but, if it can be promoted as an alternative to the B-1, then it is suddenly good—for the time being.

Finally, I want to emphasize that the B-1 bomber along with the air-launched cruise missile compose a system which provides the penetration capability to offset some of the Soviet advantages that were institutionalized in the SALT I agreement. I would also like to make the point that, if we are to have any chance at all of avoiding a period of great strategic instability favoring the Soviet Union in the 1980-84 time period, then we must get the B-1 into production this year and get it into SAC as soon as possible thereafter.

Mr. Chairman, again I would like to emphasize that the GAO study concluded that the B-1 system was the most cost effective approach to keeping a manned aircraft component in the strategic force, and I would also point out that our own Library of Congress study of the shifting military balance stated that the B-1 bomber was the one system under development today that enables the United States to substantially improve its position.

Considering the above facts, it is impossible for me to understand why the B-1 is singled out as the prime target for elimination or delay in this year's defense authorization. The Seiberling amendment is not really an amendment to just hold off on production for a short time; it is really a device to kill the program, especially in the hopes of some that a new President will be elected this year who will terminate the B-1 when he takes office. So I strongly oppose any of these amendments to delay production of the B-1 bomber.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD of Georgia. Mr. Chairman, I submit to you that the Soviet strategists are most concerned about the United States of America's strategic manned bomber force—a force that is currently over 20 years old—the same force that was launched to enforce our national will and commitment over 14 years ago during the Cuban crisis—a force that is severely in need of modernizing.

Today, we are being asked to approve the modernizing of our strategic bomber force through the approval of production authorization of the B-1 bomber. I ask you now to join with me in the consideration of a scenario which could be taking place at this very moment in the Kremlin.

The Soviet strategists are gathered awaiting the returns of this very House of Representatives which is considering the vote to approve production author-

ization of the B-1 bomber. If we stop the B-1 bomber, it will happen possibly this very afternoon on this beautiful day in April. The big digital computer in the House of Representatives inches up over he 200-vote mark to 201, 202, and on to 210, and on to 218. At that very moment there will be a big cheer in the Kremlin. The talk throughout Moscow will be that we have won—the B-1 has been defeated. The big digital computer in the House of Representatives of the United States of America will read: U.S.S.R., 218; U.S.A., 217.

The impact of this vote will be felt by not only ourselves, but our children and grandchildren. The covert efforts of the national campaign to stop the B-1 bomber—the CDFP and the CNFP have struck their fatal blow against the freedom of the people of our Nation.

I ask my colleagues in the House of Representatives to join me in striking a blow for freedom and assist me in bringing about a resounding defeat to Mr. SEIBERLING's amendment to delay the B-1 bomber production authorization which would be playing into the hands and the wills of our adversaries in the Soviet Union.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. PRICE).

(By unanimous consent, Mr. PRICE yielded his time to Mr. WAGGONNER).

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, in 1962 when we were faced with the challenge of the Soviet missile crisis in Cuba, the United States was in a superior military posture and the Soviets backed down.

We Americans have since that time abandoned that philosophy of needing to remain superior, and now we have a defense posture which requires parity. That in itself is a mistake. I say to you that there is only one other possibility as far as military posture is concerned, and that is one of inferiority.

Mr. Chairman, if we do not build this advanced bomber, the B-1, then we will consign this country to a military posture which is inferior to that of the Soviets. The B-1's mission capability makes more sense than its critics' arguments. In one breath they say that the B-1 should not be developed because it cannot penetrate the air defenses of the USSR. In the next breath they say that the B-1 should not be developed because the B-52's can be patched up to last into the 1990's and penetrate those same defenses. After protesting that the B-1 will cost too much to perform its mission, they recommend that a new air-launched cruise missile be developed, along with a new aircraft to launch it to do a lesser job than that which the B-1 is designed to do. These conflicting statements are not logical. Build the B-1. It can carry both the cruise missile and the SRAM. The B-1 will be able to penetrate for 25 years because of its higher speed, lower penetration altitude, smaller radar image, defensive jamming equipment, and stronger airframe structure.

The gentleman from New York stood here a few minutes ago and told us what a great AWACS system the Soviet Union was going to have in 1990 and how it would render the B-1 obsolete. But the same people who propose delaying now the B-1 with the hope of later killing the B-1 program, advocate not doing anything about the AWACS system here in this country. It is good for the Russians but bad for us. How foolish can we be.

My friends, we cannot delay the B-1 unless we want to consign our military posture to one of inferiority. I will never, never, do that. Our security demands the B-1. Let us build it and do it now.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Chairman and distinguished colleagues, there is little doubt that the decision to proceed with production of the B-1 is a momentus one; in fact, perhaps the most important vote that we will face this session of Congress. I believe that we should debate the issues thoroughly before we make that decision. But we should make the decision—there is no reason to defer to another Congress—with another President.

This line of reasoning is a bit hard to understand since we have heard repeated testimony that the B-1 will have completed more testing prior to production commitment than any military aircraft in history. Further, the testing to date has uncovered only minor problems and there is every indication that the aircraft will be capable of meeting mission requirements. The test results will be reviewed during the contract decision process in November. No production contracts will be awarded until that review is complete and appropriate notification is provided to Congress.

But were the real concern with the adequacy of testing, it is difficult to see how a delay until February 1, 1977, would help very much. We would know little more then, in a relative sense, than we will in November 1976. It seems obvious then that the real motive is to delay with the hope that a new administration and a new Congress might possibly have different views on the B-1.

This aircraft system has been in design and development for over 10 years. It has spanned the several sessions of Congress from the 88th to the present, each of which has reaffirmed the necessity for this program by incrementally appropriating over $2.7 billion for research and development. It has spanned three Presidential administrations under both parties and six Secretaries of Defense.

The distinguished Congressman from Ohio now wants the President to certify that he regards such expenditure as being in the national interest. Does he believe that the President included over one and a half billion dollars in the budget that he did not think was in the national interest?

The B-1 is flying, the program has been reasonably paced and soundly managed. The responsibility is ours; we dare not abrogate it.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, we are hearing much about how America is slipping from its No. 1 position. The Pentagon tells us the Soviet Union is forging ahead. Ahead in what? The Soviet Union has the military capacity to obliterate any potential enemy—so do we. It is a standoff since both the United States and the U.S.S.R. can wipe each other out in less than an hour.

It is more important in assessing our world position of power to consider the U.S. No. 1 position in food production. We export over half of all grains moving in world trade. We have the most magnificent farm establishment the world has ever known. And the Soviet Union must come to us to make up their food deficits.

Mr. Chairman, the nation that dominates food production has the potential to secure unto itself a power far greater than any military might provides, for food is living power, not deadly power. That means, power over the living, not power over the dead.

Military spending has cost the American taxpayers $1.3 trillion since World War II. What have we purchased? A 30-year arms race which has brought the American people even closer to the brink of a nuclear holocaust. We have purchased a weakened economy because our capital, scarce raw materials, and technology are channeled to serve the military. This takes its toll in jobs. The B-1 bomber actually takes away jobs from the vast majority of States. While nine States would benefit in contracts and jobs, the remaining 41 can expect little economic return for their tax dollars. In my State of Oregon, the B-1 bomber will produce about 80 jobs at a cost to us of $193,000 per job. Thousands of more jobs could be created in the State if the money were spent by the Federal Government for education, housing, health, and public works projects. At a time when our Nation is feeling the beginnings of an economic recovery, such a huge expenditure of the taxpayers' dollars on the Pentagon pet project makes no sense.

Other Members are speaking on the questionable contribution of the B-1 bomber project to our national security. I ask you to support the Seiberling amendment which gives Congress more time to collect all the facts before we commit tax dollars to the production of the B-1 bomber.

It is strange that we are debating another weapon with which to dispond ourselves against the Soviet Union while at this moment ships are loading the most strategic commodity of all—U.S. grain—to be shipped to the Soviet Union.

We should use B-1 money to purchase that Russian grain at better prices to our farmers than the Russians paid for

it, and hold it in a strategic food reserve. That would be real strength.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Chairman, this amendment can and probably will kill the B-1 program if approved. That is obviously the intent of many of its proponents.

Since the proposed deferral of the production decision is tantamount to program cancellation, the hundreds of millions of dollars would be a shameful waste of taxayers' money.

The Air Force has determined the requirement for and is requesting congressional approval of, a strategic manned bomber to meet the military threat of the 1980's and 1990's—the B-1.

It is incumbent on us as responsible representatives of the people to provide for the common defense of our Nation.

Our colleagues on the House Armed Services Committee have reviewed indepth the recommendations of the experts in the Air Force. They have concurred with their assessment of the requirement for the B-1 and are recommending to us its approval.

In casting my vote, I will accept the recommendation of the House Armed Services Committee because of the competence and expertise of the vast majority of its members in making judgments on vital military matters.

I solicit the support of my colleagues in overwhelmingly rejecting this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York. Mr. Chairman, it is indeed ironic that we are told today that the B-1 can fly at mach 2, that it has done so in a test, but it is unfortunate that it is not going to be able to fly at mach 1 at the rooftop level which originally it was supposed to do, nor will it contain the canister to safeguard the members of the crew in the case of an emergency ejection.

I strongly urge the Members of the House to vote for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING), in order that we may take a closer look at this proposed offensive weapon.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, attempts like this to cancel our advanced weapons programs which are now underway can only equate in the long run to unilateral disarmament. This Congress has no higher duty than to assure our national safety, and we cannot rely for this upon the presumed good will of other nations. The future of the United States must not be subject to the tender mercies of the Soviets who are themselves forging ahead with new advanced weapons in every category including the B-1 type aircraft.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The B-1 bomber has been studied carefully by the committee. It has met its major obligations and objectives. I think it is in the national interest of our country to go forward with this at the earliest possible moment, especially because of the money the country will save by prompt rather than delayed production.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I rise in support of the amendment to the defense authorization bill which defers the expenditure of funds for the procurement of the first three production models of the B-1 aircraft until the Air Force and the prime contractor finish the minimum flight testing program.

By deferring the massive expenditure of $960,500,000 authorized for the production models of the B-1 bomber until the President certifies to Congress that he has reviewed the test results to determine if this allocation of funds is in the national interest in addition to requiring that Congress approve such an expenditure by concurrent resolution makes all the sense in the world. Far too many questions over the reliability and effectiveness of this aircraft have come to light which require that caution be exerted until these questions can be satisfactorily resolved. The possibility of redesigning the wing structure before the testing can be completed as well as the excessive aircraft vibrations, and the inability of some other equipment to meet the requirements for electromagnetic pulse resistance make the go ahead for expenditures at this time, a risky investment.

Department of Defense sources stated that the B-52 bombers will remain operationally effective until the 1990's so there is no compelling need to give final authority for this expenditure until these questions can be answered. To best represent the national interest, Congress owes the American people caution in dispensing this enormous amount of money.

That is precisely what this amendment will do.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I, too, rise in opposition to this amendment. I think that all the amendment can do is create delay. As we create delay, we create additional costs for this already expensive weapons system. We increase the load the taxpayer is being called upon to bear to produce this weapons system, and the truth of the matter is we are here today debating why we need more defense to make up for not doing enough last year and the year before, and if we delay any further, it will be more costly next year.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, I rise in opposition to this amendment. It is rather interesting to me that the gentleman from New York, who is one of the youngest Members of this body, is supporting the oldest airplane we have—the B-52, an airplane almost as old as he is.

I am a member also of the Select Committee on Aging, and I commend him for his compassion for the B-52. But, believe me, this country needs a new bomber, and I hope we will continue with the production of the B-1.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I think there is one thing on which everybody in this House agrees this year, and that is that this is the time for us to turn around and demonstrate that we in Congress are not going to destroy our defenses, that instead we are going to begin to move back at last toward "rough equivalence" with the Soviet Union. Even the House Budget Committee has demonstrated that view with its recent actions on the defense budget, and the modest size of its proposed cut.

This amendment would eliminate one part of our great Triad. I think the most dangerous thing we could do today would be to tear away one part of that Triad and at the very time when we are trying to show the Russians and the rest of the world that we intend to remain strong and stay equal with the Soviets.

Mr. KOCH. Mr. Chairman, I rise in support of the Seiberling amendment.

I am opposing the Department's $1.5 billion request for the B-1 bomber. I favor a strong military, but I believe that this represents a poor expenditure of $1.5 billion. The eventual construction of 224 B-1's, at $87 million a plane, proposed by the Air Force would not in my judgment add appreciably to our national security. It would be better to spend a fraction of this money in modifying the B-52 to use air-to-surface missiles now under development. Providing the B-52 with the capability of launching its payload without penetrating Soviet air space is the most effective way of enhancing the strategic bomber.

The Defense Department admits that like the B-52, the B-1 will be vulnerable to Soviet surface-to-air missiles and Soviet radar detection. Last year I querried the Defense Department on this matter. The Department's response to the question of the B-1's vulnerability was as follows:

> The B-1 would not be invulnerable to attack by large numbers of Soviet surface to air missiles . . . In this regard the vulnerabilities of the B-1 and the B-52, once missiles have been launched, do not differ significantly.

The Department then explained why it wanted the B–1 bomber:

The B–1's capability to avoid the Soviet missile threat does not lie primarily in its ability to escape the missile itself but in its ability to penetrate Soviet defenses at high speeds and at low altitudes, minimizing the opportunity for the Soviets to detect, acquire with the missile radars, and launch a missile while the B–1 is within the range of the Soviet missiles.

"Penetration": This is the principal reason why the B–1 is wanted by the Defense Department. But, I would submit that the sought after penetrating capabilities can be more effectively provided by a cruise missile coming from a modified B–52 or even a commercial 747 aircraft.

Such a missile would be more difficult to detect than the B–1. The planes carrying the missiles need never go over enemy territory or oceans. The plane could not be shot down and the cruise missile would be very hard to destroy because of its low flight projectory and low radar profile. This approach would cost one tenth as much, freeing hundreds of millions of dollars, and give us a better weapons system.

In examining the efficacy of developing the B–1 bomber one might compare our aircraft with those of the Soviets. The Soviets have demonstrated their contempt for the bomber by not buying any in recent years. Their total force consists of only 160 bombers, of which 100 are propeller planes. We have over 400 high speed B–52 jet aircraft. The point is that the manned strategic bomber has no place in modern warfare. It will be shot down and will take as long as 7 hours to reach its target.

The Defense Department argues that it needs a flexible retaliatory response capacity. I would submit that this capacity is assured by submarine-launched missiles which may be fired at any time after a Soviet attack.

In sum, Mr. Chairman, I would urge that it would be wiser to focus on the air launched cruise missile rather than the construction of a new airplane system. The Congress' approval of the B–1 will only perpetrate the Department of Defense's policy of building the wrong systems. And, if a bomber is needed it is not the B–1 with its enormous expense and vulnerability.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 210, not voting 46, as follows:

[Roll No. 181]

AYES—177

Abzug	Anderson, Ill.	Baldus
Adams	Ashley	Baucus
Addabbo	Aspin	Bedell
Ambro	Badillo	Bergland
Biester	Grassley	Nolan
Bingham	Green	Nowak
Blanchard	Gude	Oberstar
Blouin	Hamilton	Obey
Boland	Hanley	O'Hara
Bolling	Harkin	O'Neill
Bonker	Harrington	Ottinger
Brademas	Hechler, W. Va.	Patten, N.J.
Brodhead	Heckler, Mass.	Pattison, N.Y.
Brown, Calif.	Helstoski	Paul
Buchanan	Holtzman	Pike
Burke, Fla.	Horton	Pressler
Burton, John	Howard	Pritchard
Burton, Phillip	Howe	Rangel
Carney	Hughes	Rees
Carr	Hungate	Reuss
Clay	Jacobs	Rodino
Cohen	Jeffords	Roe
Conte	Johnson, Colo.	Rogers
Conyers	Jordan	Roncalio
Corman	Kastenmeier	Rosenthal
Cornell	Keys	Rostenkowski
Cotter	Koch	Roush
Coughlin	Krebs	Roybal
D'Amours	LaFalce	Ruppe
Daniels, N.J.	Leggett	Russo
Dellums	Lehman	Ryan
Diggs	Long, Md.	St Germain
Dingell	Lujan	Santini
Dodd	Lundine	Sarbanes
Downey, N.Y.	McClory	Scheuer
Drinan	McCloskey	Schroeder
Duncan, Oreg.	McHugh	Seiberling
du Pont	McKinney	Sharp
Early	Maguire	Simon
Eckhardt	Matsunaga	Smith, Iowa
Edgar	Mazzoli	Solarz
Edwards, Calif.	Meeds	Stark
Eilberg	Melcher	Stokes
Emery	Meyner	Studds
Evans, Colo.	Mezvinsky	Thompson
Evans, Ind.	Mikva	Traxler
Fary	Miller, Calif.	Tsongas
Fascell	Mineta	Udall
Fenwick	Minish	Ullman
Findley	Mink	Vander Veen
Fithian	Mitchell, Md.	Vanik
Florio	Moakley	Waxman
Foley	Moffett	Weaver
Ford, Mich.	Moorhead, Pa.	Whalen
Forsythe	Mosher	Wirth
Fraser	Mottl	Wolff
Frenzel	Murphy, Ill.	Yates
Gaydos	Natcher	Yatron
Gibbons	Nedzi	Young, Ga.

NOES—210

Abdnor	Crane	Hicks
Alexander	Daniel, Dan	Hightower
Allen	Daniel, R. W.	Hillis
Anderson, Calif.	Danielson	Holt
	Davis	Hubbard
Andrews, N.C.	Delaney	Hutchinson
Andrews, N. Dak.	Dent	Hyde
	Derrick	Ichord
Annunzio	Derwinski	Jarman
Archer	Devine	Jenrette
Armstrong	Dickinson	Johnson, Calif.
Ashbrook	Downing, Va.	Jones, Ala.
Bafalis	Duncan, Tenn.	Jones, N.C.
Bauman	Edwards, Ala.	Jones, Okla.
Beard, R.I.	English	Jones, Tenn.
Beard, Tenn.	Erlenborn	Kasten
Bennett	Esch	Kazen
Bevill	Evins, Tenn.	Kelly
Biaggi	Fish	Kemp
Boggs	Fisher	Ketchum
Bowen	Flood	Kindness
Breaux	Flowers	Krueger
Breckinridge	Ford, Tenn.	Lagomarsino
Brinkley	Fountain	Landrum
Brooks	Frey	Latta
Broomfield	Fuqua	Lent
Brown, Mich.	Giaimo	Levitas
Brown, Ohio	Ginn	Lloyd, Calif.
Broyhill	Goldwater	Lloyd, Tenn.
Burgener	Gonzalez	Long, La.
Burke, Calif.	Goodling	Lott
Burleson, Tex.	Gradison	McCollister
Burlison, Mo.	Guyer	McCormack
Butler	Hagedorn	McDade
Byron	Haley	McDonald
Carter	Hall	McEwen
Chappell	Hammer-schmidt	McFall
Clancy		McKay
Clausen, Don H.	Hannaford	Madigan
	Hansen	Mahon
Clawson, Del	Harris	Martin
Cleveland	Harsha	Mathis
Cochran	Hawkins	Michel
Collins, Tex.	Hébert	Milford
Conable	Hefner	Miller, Ohio
Mills	Regula	Stratton
Mitchell, N.Y.	Rinaldo	Stuckey
Montgomery	Risenhoover	Symms
Moore	Robinson	Taylor, Mo.
Moorhead, Calif.	Rose	Taylor, N.C.
	Runnels	Thone
Morgan	Sarasin	Thornton
Moss	Satterfield	Treen
Murphy, N.Y.	Schneebeli	Van Deerlin
Murtha	Schulze	Vander Jagt
Myers, Ind.	Sebelius	Waggonner
Myers, Pa.	Shipley	Walsh
Neal	Shriver	Wampler
Nichols	Shuster	Whitehurst
O'Brien	Sikes	Whitten
Passman	Sisk	Wiggins
Patterson, Calif.	Skubitz	Wilson, Bob
	Slack	Wilson, C. H.
Perkins	Smith, Nebr.	Winn
Pettis	Snyder	Wright
Peyser	Spellman	Wydler
Pickle	Spence	Wylie
Poage	Staggers	Young, Alaska
Preyer	Stanton, J. William	Young, Fla.
Price		Zablocki
Quie	Steed	Zeferetti
Railsback	Steelman	
Randall	Steiger, Wis.	

NOT VOTING—46

AuCoin	Hinshaw	Roberts
Barrett	Holland	Rooney
Bell	Johnson, Pa.	Rousselot
Burke, Mass.	Karth	Stanton, James V.
Cederberg	Litton	
Chisholm	Macdonald	Steiger, Ariz.
Collins, Ill.	Madden	Stephens
Conlan	Mann	Sullivan
de la Garza	Metcalfe	Symington
Eshleman	Mollohan	Talcott
Flynt	Nix	Teague
Gilman	Pepper	Vigorito
Hayes, Ind.	Quillen	White
Hays, Ohio	Rhodes	Wilson, Tex.
Heinz	Richmond	Young, Tex.
Henderson	Riegle	

The Clerk announced the following On this vote:

Mr. Burke of Massachusetts for, with Mr. Teague against.

Mrs. Chisholm for, with Mr. Flynt against.

Mr. Richmond for, with Mr. de la Garza against.

Mr. Karth for, with Mr. Henderson against.

Mr. AuCoin for, with Mr. White against.

Mr. Hayes of Indiana for, with Mr. Madden against.

Mr. Symington for, with Mr. Mollohan against.

Mrs. Collins of Illinois for, with Mr. Pepper against.

Mr. Litton for, with Mr. Stephens against.

Mr. Nix for, with Mr. Conlan against.

Mr. Riegle for, with Mr. Roberts against.

Mr. Metcalfe for, with Mr. Talcott against.

Mr. Barrett for, with Mr. Quillen against.

Mr. Holland for, with Mr. Rhodes against.

Mr. Macdonald of Massachusetts for, with Mr. Eshleman against.

Mr. DICKINSON changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HICKS

Mr. HICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HICKS: Page 2, line 19, after "$7,378,300,000" insert the following: *"Provided,* That there shall be no expenditure or obligation of funds for a nuclear-powered aircraft carrier until such time as the Committees on Armed Services of the House of Representatives and the Senate have jointly conducted and completed a comprehensive study and investigation of the past and projected utility of aircraft carriers and their task forces, and a thorough review of the consideration which went into the decision to maintain the pres-

ent number of carriers. Alternative ways of satisfying missions envisioned for aircraft carriers now and in the future shall be reviewed for cost and effectiveness.

"In carrying out such study and investigation the Committees on Armed Services of the House of Representatives and the Senate are authorized to call on all Government agencies and such outside consultants as the committees may deem necessary."

Mr. HICKS. If the Members do not listen, they are not going to get the whole story here, and I know that is what they are on the floor for, to find out what is going on.

This amendment might have sounded like the last one. It is not.

I wrote the Members all a "Dear Colleague" letter, and they may have received it, but none of them have read it, I am sure, so that I am going to read it, and it will give the Members the story if they will just be quiet and listen. It only takes about 3 or 4 minutes, and it will not hurt very much to listen to it. The Members will understand what this amendment is all about.

I join my subcommittee chairman, CHARLIE BENNETT, as a believer in a strong Navy, and I want the United States to have the most effective Navy that it can afford. However, the subcommittee, and thereafter the full committee, made a decision to purchase an additional *Nimitz*-class aircraft carrier by authorizing $350 million in long lead-time components. The Department of Defense made no request for these long lead items. That in itself is no reason to reject the add-on, if it will give us a more effective Navy that we can afford. But is more *Nimitz*-class carriers the way to achieve this goal? The Department of Defense and the National Security Council, apparently, have not so decided, as I am advised the matter is under intensive review. I believe the Congress should do no less.

Our Navy has been built around the aircraft carrier since World War II, but the carrier did not become the capital ship of the Navy without a good deal of controversy. In the years between World Wars I and II, there was a continuous debate between backers of the carrier and supporters of the battleship, which was then the centerpiece of the Navy. Most officials within the Navy were firmly behind the battleship with its huge 16-inch guns that could shoot over 20 miles. A small number of naval officers argued that the day of the battleship had been eclipsed by the advent of the airplane.

They said we should begin building aircraft carriers instead of building battleships. The Navy lined up firmly behind the battleships, just as the Navy lines up behind the aircraft carrier today.

As the Members know, World War II proved beyond question that the aircraft carrier had replaced the battleship as the principal ship of the U.S. Navy. Fortunately, we had time and the protection of two oceans to compensate for our failure to recognize that. In any future war, we cannot count on either time or the oceans to be of aid to us.

The amendment I am offering is patterned after one that was accepted in the fiscal year 1970 authorization bill. If a congressional review was accomplished in 1970, why do we need another today?

Principally, because of the tremendous change in conditions. In 1970 our Navy was markedly larger — 760 ships then, 477 ships now—and the Soviet navy was smaller. And the cost of shipbuilding has gone out of sight.

The investment cost of another *Nimitz* and its air wing aproaches $4 billion; its 35-year life cycle cost is over $17½ billion. The Navy would like to replace 8 *Forrestal* class carriers on a 1-for-1 basis with *Nimitz*-class carriers. These sums will provide us with extraordinary capabilities, but not in very many places. At such prices, what else can we afford for the Navy? As such, our fleet of aircraft carriers will provide a very small number of extremely high-value targets—only 12—for the Soviet Union to concentrate upon.

We really do not know the capabilities of the nuclear attack submarine or of the antiship missile, since there has been no general war at sea since World War II. But we do know that the Soviet Union is concentrating its forces in these two areas. If the past is any guide, the U.S.S.R. can continue to assemble one nuclear attack submarine on the average of every 5 to 6 weeks and one missile-firing major surface combatant about every 10 weeks during the 7 or 8 years it will take to build another *Nimitz*-class aircraft carrier.

I am by no means sure that there is a direct parallel between the former battleship-carrier controversy and our present situation. But there is enough substance to the question to justify an intensive congressional review of this issue—just as the Defense Department and the National Security Council are now doing.

I hope you will give favorable consideration to my amendment.

Mr. BOB WILSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our Navy is now the smallest it has been since 1939. We have a total of 478 ships including 116 submarines of all types, both nuclear and diesel powered; 173 major combatants and 189 minor combatants and auxiliaries. The aircraft carrier is the principal offensive combatant in the U.S. Navy for nonnuclear war. We currently have 14 in commission but will be down to 13 after the USS *Oriskany* is decommissioned in June of this year.

This compares with 23 active carriers the U.S. Navy had early in the Vietnam war. With the exception of aircraft carriers, where the Soviets have one in active service, we are outnumbered by the Soviets in every other class of warship and auxiliary.

Our current carrier force consists of the nuclear powered USS *Nimitz* commissioned last year; the nuclear carrier USS *Enterprise* commissioned 14 years ago; eight oil-fired carriers of the *Forrestal* class, ranging in age from 7 to 20 years; three *Midway*-class carriers 28 to 30 years old; and the smaller carrier *Oriskany* laid down in World War II. The *Dwight D. Eisenhower* to be delivered in 1977 and the *Carl Vinson* expected to be delivered in 1980 are sister ships of the *Nimitz* and will replace two of the oldest conventional carriers. To date, no U.S. carrier has seen active fleet service beyond the 31-year record set by the USS *Hancock* which was decommissioned in January of this year.

If the United States is to continue to have a surface Navy, and I for one firmly believe that we must, it will be necessary to have a modern carrier force as the principal strike force for any military confrontation short of all-out nuclear war.

Over the years there have been many studies conducted by the Navy, the Joint Chiefs of Staff, the Department of Defense, the National Security Council, and the Congress, all of which confirm the need for aircraft carriers. The declining number of overseas air bases, the worldwide shortages of energy sources—particularly oil—and the threat to our sea lines of communication posed by the tremendous Soviet submarine fleet, all emphasize the clear need for the U.S. Navy to have a modern, powerful carrier force.

The executive branch has identified the need for two nuclear-powered aircraft carriers to be authorized in the next 5 years. The President's budget submitted to Congress in January 1975, identified $350 million to be requested in the fiscal year 1977 shipbuilding program for advance procurement for the first of these two new carriers. However, this year's revised Presidential budget submitted to the Congress does not request any funds in fiscal year 1977, but identifies an intention to request $400 million in fiscal year 1978. The Navy in January of this year completed a study to determine the characteristics for this next carrier which concluded that the most cost effective carriers the Navy can build are carriers of the *Nimitz* class, such as the *Carl Vinson*. This new Navy carrier study also pointed out that at least $178 million of the cost of building a new *Nimitz*-class carrier could be saved if $350 million in initial long lead procurement of nuclear propulsion plant components were funded in fiscal year 1977 instead of fiscal year 1978.

It takes 8 years from initial funding to build a modern nuclear carrier such as the *Carl Vinson* for which advance procurement funds were authorized 4 years ago. Thus, only if initial funding for long-lead time items is provided in fiscal year 1977, the Navy estimates that the ship could be delivered in October 1984, and relieve a carrier in the active fleet in 1985, at which time the *Forestal* will be 30 years old and the *Midway* will be 40 years old—if she is still in service. The eight *Forrestal*-class oil-fired car-

riers were completed during the 13-year period from 1955 to 1968, or at a rate of approximately one ship every year and a half. Therefore, several of these ships are expected to reach the end of their useful lives at about the same time. The normal life of a carrier is 30 years. The only way we can maintain a force level of 12 carriers, two less than we have now and about half the total carrier force we had a decade ago, is to start now building a carrier every other year.

The deferral of initial funding for the next carrier from fiscal year 1977 to fiscal year 1978, as proposed by this amendment, would delay delivery of this ship to at least October 1985, 5 years after the scheduled delivery of the *Carl Vinson*.

The Navy has pointed out that the projected October 1985 delivery is predicated on the assumption that the shipbuilder would be able and would agree to provide the skilled manpower necessary to build the carrier in this time period, even though most of the manpower used to build the *Carl Vinson* could be expected by that time to have been reassigned to other work or laid off.

In the past 25 years, the Newport News Shipbuilding & Dry Dock Co., the only yard now capable of building carriers, has been awarded contracts for the construction of eight aircraft carriers, the largest gap between these carriers has been 4 years. Therefore, the minimum 5-year gap caused by deferral of long-lead funds to fiscal year 1978 would create greater disruption in the carrier building program at Newport News than has been experienced at any time during the last quarter century.

Admiral Rickover has testified that the long-lead nuclear propulsion plant components for the *Nimitz*-class carriers are the largest components produced for the naval nuclear propulsion program and in many cases required development of special production lines and facilities to produce them. The components for the *Nimitz, Dwight D. Eisenhower,* and *Carl Vinson,* and a ship's set of shore based spares, were ordered between fiscal year 1967 and fiscal year 1973. An average of one ship's set of components was ordered every 21 months, with the longest gap between any two orders being 3 years. The last of these components was ordered in calendar year 1972. Deferral of long-lead funds from fiscal year 1977 to fiscal year 1978 would put at least a 5-year gap between the ordering of nuclear propulsion plant components for the *Carl Vinson* and the next carrier.

The October 1985 delivery for the next carrier is predicated on the assumption that the 5-year gap after ordering the nuclear propulsion plant components for the *Carl Vinson* would not increase new component leadtime. This assumes that the component manufacturers involved would make their production facilities and manpower available at the time needed, even though these facilities are expected to have been shut down or diverted to other work due to the 5-year gap between orders.

The administration has said they plan to build the ship, and I agree they should. But it makes no sense to delay it and add at least $178 million to its cost. If the ship is to be built, the advance procurement funds should be authorized this year. The Nation has not reduced its expectations of what the Navy can and must do in time of war. Consequently it is very important that each new warship be as capable of fighting and winning as we know how to build. For carriers, this means we should build *Nimitz*-size carriers. The carrier issue has been gone into over and over again at great depth. The special Joint Subcommittee of the House and Senate Armed Services Committees on the CVAN 70 went into these issues in 1970 and reached the same conclusion.

It is time to stop studying the carrier issue and decide to get on with it. All this delay in deciding the issue can only increase the cost of building the next carrier.

This issue is being mishandled by the Department of Defense and the Office of Management and Budget in much the same way they mishandled and delayed authorization to construct the *Carl Vinson*. I do not see how they can justify to the taxpayers the added cost of delaying this carrier.

I support the provision in the committee bill to start funding the construction of another *Nimitz*-class carrier in the fiscal year 1977 shipbuilding program. I hope the Department of Defense and the executive branch will follow the lead being taken by Congress and recommend funding the balance of this ship next year so that the people upon whom the task of building this ship will fall can get to work.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, I rise in opposition to the amendment.

I regret to say, Mr. Chairman, that the gentleman from Washington has adopted a tactic used by the bureaucrats. That is, if you do not have the facts and logic to defeat a program, then, by all means, try to study it to death.

The gentleman is aware, of course, that all of the facts and logic in the aircraft carrier issue lie with the committee's position.

He knows, for example, that our Navy must depend upon aircraft carriers if we are to retain any superiority over the Russians at sea, now or in the 1980's and beyond.

He knows that the carrier was in the fiscal year 1977 budget request until just before it was submitted.

He knows that the Navy at the direction of the Secretary of Defense, only a few months ago, completed an exhaustive study of aircraft carrier types. The study, as the gentleman knows, concluded that a carrier similar to the *Nimitz* class is the most cost effective and militarily sound ship.

He also knows, that to delay the authorization of long-lead nuclear propulsion items for another year, would increase the cost of a new carrier by $178 to $190 million.

This committee has received studies on nuclear powered aircraft carriers that would make a pile 10 feet high. All of them have concluded the same thing. This country needs nuclear-powered aircraft carriers.

Surely the gentleman from Washington remembers the study made by a Joint House and Senate Armed Services Committee into this very subject in 1970. In fact, the issue was exactly the same: Whether to fund a follow-on *Nimitz*-class carrier.

That congressional study also concluded, with only a single exception, that the carrier should be built. The single exception did not withhold his concurrence because of the carrier, but because of yet another claimed study of the matter by the administration. A study, by the way, that never existed.

No, Mr. Chairman, the proponents of this amendment do not want yet another study. They want to kill the aircraft carrier and future naval aviation. For, if this is not their present intent, it will be the sure result.

I urge you to see this amendment for what it really is; an attempt to delay and eventually reduce this country's seapower.

I urge that the amendment be soundly defeated.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment would do substantially what we did on the last carrier we had. We had a study group appointed, of which Senator STENNIS and I were cochairmen.

The result of that, the things that happened in the executive branch and in the legislative branch, was years of delay and hundreds of millions of dollars of cost.

The Navy asked last year when they came before us for 35 new ships per year, major ships, in order to keep up with the situation that was happening in Russia. DOD suggested that the Navy would need 38 ships, but instead, they came in this year with a request not for 38 ships nor for 35 ships, but for only 16 ships, less than half of what they said last year was absolutely essential if we were going to hold our own in the world.

Mr. Chairman, to delay this particular ship, which was asked for next year, I think would cost a lot of money. It would destroy the national defense stature we have in our country, and it would be very unwise in every respect.

The number of carriers which we now have is 13. As my friend and colleague, the gentleman from California (Mr. BOB WILSON), pointed out, when the two ships that are now under construction are completed, the ones they are going to supplant are going to be about 30 years of age. This ship, when it gets into the fleet, is going to supplant a ship which is 40 years of age.

Mr. Chairman, anyone who knows anything about a ship of that size and about

its steel structure is really not going to be very happy if his son is on a ship that is 40 years of age.

Even if we go forward with this ship this year instead of waiting until next year, as has been suggested, we are going to have a 40-year-old ship that this new ship is going to supplant.

Therefore, Mr. Chairman, I think we ought to bring ourselves at least a little closer to reality here.

We are trying to bring to the world a program which is credible and which will let the world know that our country wants to go ahead in national defense.

Mr. Chairman, there are plenty of places to get this money. There is $6 billion in revenue sharing which nobody except the people in City Hall wants. There is $5 billion or $6 billion in foreign aid. There are billions of dollars of waste in food stamps, and there are billions and billions and billions of other dollars which are not being spent wisely by our country today.

Mr. Chairman, this is a wise investment. It will be cheaper. Even when we get this, we will have fewer carriers than recommended by the Joint Chiefs of Staff. Even when we get this particular carrier, we will have less, not more, but less than was recommended.

It has been requested by the Department of Defense in its funding for next year; and our committee decided that we should move it up, because we want to have a credible Navy. Once we do that, we are going to tell the world and show the world that we want a peaceful world in which we do not invite wars.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Oregon.

Mr. WEAVER. I read in the newspaper that it takes 85 percent of the strike force of the carrier just to protect the carrier. Is that true?

Mr. BENNETT. No, that is not true.

Mr. WEAVER. How much of the strike force does it take to protect the carrier?

Mr. BENNETT. The strike force on the carrier does help to protect the carrier, but that is not the function of the strike force.

I must say that I feel the Members should realize that only the carrier in our national naval defense posture is the place where the United States has any credible edge over any other opponent. The carrier is the only place where we really can say there is no doubt in the mind of the rest of the world as to our capability with respect to national defense, on the sea, at least. People say it is hard to protect the carrier, but it is the safest place on Earth. People are less likely to be blown up on a carrier than on anything else. It is the most dependable ship on the surface of the Earth.

The ship is created so that we can have bases abroad for the protection of our Nation when it needs to be protected. That is the purpose. We cannot obtain all of the air bases on land we want today in the complex of international affairs. Therefore the aircraft carrier is the bastion of national defense. I hope the amendment is defeated.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I too was a member of this study group that was created in 1970 to look into the question of aircraft carriers. As the gentleman from Florida (Mr. BENNETT) has already indicated, this same group would probably come up with the same decision today because the situation is even more urgent today. We concluded in 1970 that aircraft carriers are very necessary and in fact represent the only measure of superiority of our naval forces. That situation is even for true today, when we now have fewer than 500 ships in the Navy. The only superiority we have over the Soviet navy is our aircraft carriers. In fact, the situation today is less reassuring. In 1970 we had 16 carriers, today we have only 13. And only two of those carriers are nuclear powered. We do have two other nuclear carriers under construction. That still leaves the bulk of our carrier force oil-fueled. And the carrier fleet is the one area, if one queries the value of nuclear power, where we desperately do need nuclear power.

What we are trying to do in this bill is continue the orderly process of building one nuclear carrier every 2 years, so that we can have a fleet of nuclear carriers that can travel the world without worrying about what the oil barons may be doing with the oil situation.

Many people have opposed our establishing any kind of base in the Indian Ocean at Diego Garcia, to protect our oil lines out of the Persian Gulf, even though the Soviet Union now has a 15,000-foot runway available in Somalia. So what do we have left to protect our interest in the Indian Ocean? The only thing we have are our carriers. If the only carrier we have available is an oil-powered carrier, it would not be able to stay in the Indian Ocean for any length of time. So our capability would be degraded.

So we do need to continue the construction of a modest fleet of nuclear-powered carriers if we intend to demonstrate to the Soviet Union convincingly that we do not intend to reduce our naval forces in the United States this year.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, would the gentleman from New York speak to the point of size? I had the pleasure of being on the aircraft carrier *Nimitz*, and when I left that great craft I had a question in my mind as to whether an aircraft carrier should be that large.

Would the gentleman speak to that point?

Mr. STRATTON. I would be happy to do so.

I was chairman of the committee that went to Somalia. The Russians there are building there the largest naval supply establishment outside of the Soviet Union. They have almost completed a 15,000-foot runway to provide facilities for their land-based naval aircraft. We have no comparable base in the Indian ocean.

An aircraft carrier is considerably less than 15,000 feet long; it is only 800 feet long. The reason for the size of an aircraft carrier is the size of the airplanes that operate out of it. Today we have the F–14. We have stronger planes that can fly further than in the past.

So I do not think we can honestly expect to reduce the size of an aircraft carrier without reducing the size of the planes, which are the carriers' most important weapon.

The trouble with this amendment is that it will increase cost and will not provide us with more security. It will provide us with less security and will also disrupt the construction facilities which we have around the country, especially in certain areas, which are today building carriers. If these yards cannot plan ahead of a reasonable schedule, we are not going to get the ships we need when we need them.

Mr. CARR. Mr. Chairman, would the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I agree with the gentleman's remark about the nuclear powered versus nonnuclear powered, but I am sure the gentleman did not mean to leave the impression that the nuclear-powered aircraft carriers are totally fuel self-sufficient considering the 90-some odd aircraft that are carried on the carrier and on which they need to get fuel for the operation at a high level of activity about every week.

So they must have nonnuclear power to go out to the aircraft carrier to support a task force for the aircraft carrier. And the frigates, destroyers, and cruisers—they need fuel, and they have to be supplied.

So I agree with the gentleman, if we are going to build aircraft carriers, they probably should be nuclear powered. But I am sure the gentleman did not intend to leave the impression that nuclear power is the answer to all aircraft.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Washington.

I do not think the argument here today is really one of whether or not we are going to replace very old aircraft carriers. I think they ought to be replaced.

I find myself in a very unusual position, having flown off aircraft carriers as a Navy pilot just very recently. I can tell the Members when I was a Navy pilot, I wanted a bigger and better aircraft carrier to fly off of and land on, especially at night. But now I am a Member of Congress, and perhaps I see things in a little different light. So I do not think the question is really one of replacing old carriers. I think they ought to be replaced. But I think we ought to examine the alternatives.

I, too, spent some time, as did the gentleman from Illinois, on the *Nimitz*. I was very impressed by it. It is a floating palace, and it has every technological device known to mankind. But I remem-

ber a conversation I had with an admiral concerning the *Nimitz* carrier. The conversation was basically something like this. I said, "Really, when we come right down to it, in a strategic war, of what value is the *Nimitz* carrier?"

He said, "Well, not really much. It is really a sitting duck."

I said, "Well, then, of what value is the *Nimitz* carrier?"

He said, "Well, it is good for the planned targets that we have to hit from land, like in the Vietnam situation, or for things that might take place in the Indian Ocean that the gentleman from New York spoke about, or in Africa, or in places like that."

I said, "Well, if that is the situation, then do we need a $2 billion floating technological nightmare like the *Nimitz*?"

I will never forget what he said to me. He said, "Mr. Congressman, I did not ask for this ship. We have reached the point in our society where if something is technologically feasible, we are going to do it, and the *Nimitz* and everything that is on it is technologically feasible, so we got it." I think that there are alternatives that we have to examine in terms of our carrier fleet, and that is what the gentleman from Washington is trying to do. There are, as I see it, at least three alternatives.

One is the nuclear midi-carrier, which would have a platform about two-thirds the size of the *Nimitz*. I think that would be more than adequate for any of our interceptors such as the F–14, the F–4, and other planes like that.

The other alternative I think we should examine would be, of course, the fuel-fired, oil-burning midi-carrier, again about two-thirds the size.

The third alternative would be the mini-carrier which, of course, then would not be a nuclear carrier, but it would be, of course, a fuel-fired carrier and would have a very small platform, which is used for the V/STOL aircraft and perhaps even some of the smaller jets, the attack aircraft like the A–4's and A–7's which could fly off of them.

The gentleman from Oregon asked a question about how much, in percentage terms, of the carrier's ability is used for its own defense. My figures show about 60 percent of the carrier's aircraft is utilized for defense against submarines and surface ships rather than for attacking and destroying enemy targets. The big thing is it must remain farther out to sea, thereby minimizing its primary function, which I consider to be its power projection against land-based targets.

Let me say the cost of the CVNX carrier would be $2 billion to build, and the yearly operating costs will be almost $90 million. The life-cycle cost of the ship is then close to $5.8 billion to which must be added the life-cycle cost of the ship's aircraft at $11.9 billion. Therefore, we have a grand total life-cycle cost of $17.7 billion. Also, about 50 percent of the Navy's budget right now, 50 percent of the $26 billion budget, goes into supporting aircraft carriers. So, I think the economic reality is that if we continue to build ships with billion-dollar price tags on them, the Nation will be unable to afford a 13-vessel carrier fleet, which I think we have to have. Nor do I think we will be able to have a Navy with 600 surface ships, which I also believe we ought to have.

I think by putting all of our eggs into one big supercarrier we will acquire a nice showpiece to float around the world, but in the case of an engagement it is a sitting duck and it is not going to be as valuable as having a number of midi-carriers.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding. I associate myself with the gentleman's remarks and I commend him for making these remarks.

Is it not also a fact that this is an area where the Soviets are so far behind us that we do not have any competition from them on this? They do not have a single one of these.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(On request of Mr. STRATTON, and by unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I would like to respond to the gentleman. He has suggested we ought to have mini-carriers.

Mr. HARKIN. It is midis.

Mr. STRATTON. All right, midis, minis, anything. And he has also suggested, as I understand it, that we should have a new kind of midi- or mini-airplane too. I would like to say the Defense Department has actually carried out a study of this proposal. They have concluded that when we come to design this new carrier and develop the new techniques and the new planes that would have to go on those smaller carriers, it would actually cost us more money than if we just build *Nimitz* class carriers.

Mr. HARKIN. The only plane they would have to fit onto the *Nimitz*-type carrier is the F–14. It is not going to be used that much against the land-based targets.

Mr. STRATTON. The F–14 is not going to fit onto the midi.

Mr. HARKIN. If we do not have the *Nimitz* class, we do not have a need for the F–14. The *Nimitz*-class carrier breeds the F–14 plane.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I served in the Navy on a flattop in the Second World War and we found it to be very versatile and we were proud of it. How many of these could we build for one in the *Nimitz* class?

Mr. HARKIN. I do not know about the nuclear-powered one, but the conventional-powered ones would be something like two or three for the price of one of the *Nimitz*-class carriers. The Navy has said that the cost of a midi carrier nuclear powered would be the same as the *Nimitz* nuclear powered, but I think what they are talking about is the cost of the powerplant and everything, which might be true, but they will not need all the computers we have on the *Nimitz* that compute everything. We just would not need all that stuff. Therefore, the cost of the midi has to be less, in my opinion.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I would like to clarify two or three things. I must say a lot of the admirals were really very reluctant and sad that we did not get a midi carrier, as I was also, but the facts are they said after study, that it would cost more money for the midi carrier unless we got over three. Then these midi carriers we would eventually get down to where we would have a cheaper carrier than the *Nimitz;* but then we would not have anywhere near the job. So there would be no actual savings, but in fact a loss, cost effectivewise.

Mr. HARKIN. But for the primary purpose of the carrier, which is to project its power against land-based targets, then we do not need the *Nimitz*. The admiral said, "If you can give me a hull with a platform and with all the necessary equipment so I can carry armaments and project them against the land-based targets, that is all we need."

Mr. BENNETT. The gentleman said the admiral said: "What good would it be in an all-out strategic war?" But we must bear in mind that the carrier is designed for conventional war. It is not, like the Trident, designed to be a strategic weapons system.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not mean to impugn the motives of any critic of any defense program or of this bill.

But it seems that, over the years, those items of defense hardware which would give us the greatest ability to deter war, and would cause the Soviets the greatest pause in their adventures, are the very ones which draw the most fire by some Members of Congress.

Just tick them off:

Land based strategic missiles;

The Polaris/Poseidon submarines;

MIRV and MARV;

Terminal guidance systems;

The F–14;

Battle tanks;

The faster and quieter attack submarines;

Trident;

The B–1;

Nuclear powered fleet escorts;

The Seafarer system;

The Cruise missile;

The Strike cruiser; and now, the aircraft carrier.

The modern aircraft carrier, represented by the *Nimitz* class, is the most powerful and versatile ship in the world. And, contrary to the statements made by its critics, the carrier is also the most survivable surface ship in the world.

No modern carrier, beginning with the *Essex* class which was designed before World War II, has ever been sunk by

enemy fire. Even those few which were severely damaged came home under their own power.

The carrier is the backbone of the fleet. It is the only ship capable of performing all of the Navy's warfare tasks. It can attack sea, air, and land targets from any ocean area.

Certainly, *Nimitz* class carriers are big ships. Contrary to what you may have heard, the size of these ships is the very thing which makes them most effective, least vulnerable, and most cost effective per unit of combat potential. Higher capability of each carrier is necessary if force levels are kept at 12 or 13 active ships.

Size, again, permits greater structural strength, damage control systems, and redundancy to resist combat damage and to permit the continuation of air operations. These advantages are impossible on smaller carriers.

Extensive studies by the Navy clearly show that there is no way to build a cheap small attack aircraft carrier. Nor is the cost of a carrier necessarily related to hull size. Less than 10 percent of the acquisition cost—that is the cost included in SCN—of a carrier is for its hull structure.

The remaining 90 to 91 percent is for propulsion and electric plants, electronic equipment, auxiliary systems, and other equipment, which would be required for a carrier of any size which could operate modern aircraft.

Increased size and efficiency, therefore, are bonuses gained at a comparatively small additional cost.

The critics say that the size of our carriers makes them good targets and difficult to hide. I respond to this with the fact that, in wartime, every ship on the ocean is a target, and it is the carrier's function to make targets of the ships and installations of an adversary.

Nor is it the function of the carrier, or any other warship, to hide; even if this is possible in this day of intelligence satellites. The carrier's function is to operate along with other ships of the fleet, to assure air superiority for the fleet, and to carry out its offensive missions against the enemy.

Those who say that we do not need carriers, or who oppose the replacement of those we must begin to retire in the 1980s, might as well oppose all surface ships for the fleet. It amounts to the same thing, since without the carrier, in a hot situation, no other surface ship would be safe—if, in fact, they could survive the attacks of missile firing naval aircraft.

The Joint Chiefs of Staff believe that we need carriers in greater numbers. And, as an indication of Soviet concern about our carriers, consider the great number of assets which they have devoted to the problem. They know that the presence of carriers gives our fleet superiority.

I urge the defeat of the amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to draw my colleagues' attention to the $350 million included in this bill for long lead time funding for the aircraft carrier. I should emphasize that even though only $350 million is included in this bill for the carrier items, the full price of the carrier that we will be starting will run to at least $2 billion.

The $350 million earmarked for carrier procurement is included in the $6,837.2 million authorization for new naval shipbuilding and conversion—SCN. Twenty new ships are included in this funding. The administration SCN request included $4,595.3 million for funding of 16 new ships. The total committee authorization for shipbuilding and conversion is $7,373.3 million—$1,088.8 million greater than the original administration request for $6,289.5 million. However, the Armed Services Committee increased funding for shipbuilding and conversion of new ships by $2,241.9 million.

Although I have a number of disagreements with the restructured SCN program approved by the Armed Services Committee I would like to draw the attention of my colleagues at this time to the addition of $350 million for the next aircraft carrier to be built. The administration had not requested any money for aircraft carrier procurement this year since it is still reviewing the question of what the most suitable design would be for our next carrier. Since the Nimitz-class carrier, the favorite of the Navy in these considerations, is estimated to cost almost $2 billion to build, the decision of whether we need to build another supercarrier at this time is a very serious one that should certainly be given another year for thorough review.

As a member of the Seapower Subcommittee of the Armed Services Committee, I objected to the committee's decision to add this $350 million to the fiscal 1977 budget. I still feel that the money should be deleted from the final bill to be passed by the House.

Congress is often accused of reacting to crises, rather than planning well in advance. In my view, this is one excellent reason to begin now to evaluate the role of the aircraft carrier in tomorrow's Navy—and to examine alternative approaches for replacing the aging *Forrestal* class carriers.

The lifespan of a carrier has traditionally been considered to be 30 years; but now the Navy is talking in terms of a 35-year lifespan. In the instance of the oldest *Forrestal* class carrier, we are now thinking in terms of a 41-year lifespan. The decision of how to replace the *Forrestal* class of aircraft carriers will be affecting the security of two generations of Americans.

The U.S. Navy plans to operate 12 carriers for the indefinite future. Whether or not we agree that a 12-carrier fleet is necessary, we will soon have to decide how to best replace the carriers as they pass their useful life. Eight of the 13 carriers now in operation are of the *Forrestal* class. They were built between 1945 and 1961.

Former Secretary of Defense James Schlesinger was a leading skeptic of whether future carriers need to be of the $2 billion supercarrier *Nimitz* class variety. Before his dismissal as Secretary of Defense, Dr. Schlesinger directed the Chief of Naval Operations—CNO—to begin design work on a midsized carrier to replace the oldest *Forrestals*.

Dr. Schlesinger specifically wanted a design for a carrier that would cost less than the $2 billion needed to produce a *Nimitz* class carrier. Even with the added research, development, and design costs that would be needed for the first of a new class of carriers, the Secretary of Defense stated that the first ship of the new class should cost less than the $2 billion *Nimitz*; subsequent mid-sized carriers would provide substantial savings over the cost of the *Nimitz*. I would like to emphasize that the Secretary of Defense's guidance to the CNO was based strictly in economic terms. He made no mention of the Navy's missions or aircraft that should be accommodated by the new class of carriers. Indeed, since there are growing questions about the missions of the Navy in the decades to come, missions that have been perhaps changed by present requirements of the global military situation—it would be premature to tie a proposed design for a new aircraft carrier to the traditional roles and missions of the Navy as they have been fixed over the years.

The Chief of Naval Operations, Admiral Holloway, set up a study group as the Secretary requested. However, Admiral Holloway did not pass along the Secretary's guidelines to the study as they were originally laid out. The CVNX characteristics study group was set up under the leadership of Rear Admiral Forrest S. Petersen. But the CNO provided different guidance to his study group: Admiral Holloway's guidance called for a carrier that "will be capable of operating modern aircraft across all the Navy's missions." In my view, this guideline insured before the study ever began that the CVNX study group's conclusion would call for a carrier very much like the *Nimitz*—if not identical to it. In addition, this guideline also insured that the cost terms of Secretary Schlesinger's guidance could not be met.

To understand why I have come to this conclusion, I am inserting portions of the CVNX characteristics study group report, issued earlier this year, and a critical analysis of this report completed by the Library of Congress at the request of my colleague on the Armed Service Committee, Congressman FLOYD HICKS.

The Library of Congress evaluation of the Navy study on CVNX characteristics was especially concerned about the use of study guidelines that virtually guaranteed the Navy's preferred conclusion. The Library points out:

> The statement that "(t)he ship which results will be capable of operating *modern* aircraft across *all* the Navy's missions" implies that the carrier must be able to operate the F-14 and heavy attack aircraft and to survive in the most severe threat environment a naval force can be expected to face today, that is, the saturation attack conducted by coordinated land, air, ship, and submarine opposition near the Soviet homeland.

Because the carrier Admiral Holloway's guidance called for would have to operate under these conditions, the carrier's air wing must be extremely large. Not only would this carrier need attack aircraft, it would need fighter escorts to protect these attack planes from Soviet airpower. The carrier envisioned by Admiral Holloway would need jammers and tankers to help the attack aircraft to project power ashore and then to return to the carrier. In other words, because the new carrier is required to operate in high-threat areas and to project power ashore in these areas, we need a carrier that can house between 85 and 100 aircraft—precisely the size of the *Nimitz* class carrier.

I do not wish to debate here the merits of the carrier's power projection mission in high threat areas. However, I do think that it is very important for us to understand that the former Secretary of Defense established one set of guidelines when he called for the Navy to study the design that would be useful for a mid-sized carrier. The Chief of Naval Operations chose to ignore the directions of Secretary Schlesinger and sent out a very different set of guidelines to the study group put together to examine the carrier issue. In my view, the selection of additional *Nimitz* class carriers depends very much on the guidance which one decides to follow while studying the problem.

My point today is not that we should end all plans to continue building aircraft carriers in the future. My point today is that we should not be including $350 million in the bill now before us to begin work on long lead-time items for our next aircraft carrier.

The administration wanted another year to complete its review of this very important military procurement decision. We should let them have that year—and we should welcome the chance to have more complete information available to us when we decide on the funding for our next carrier. The Navy study has a very obvious bias: The Navy wants their next aircraft carrier to be a *Nimitz* class supercarrier. Since the carrier they propose will cost at least $2 billion to build, we should make very sure that this would be the right course to follow before sending the money over to them.

Not only should we wait for the administration to complete its review of our naval needs. We should also use this extra year to conduct a serious review of our naval requirements on our own. It is for these reasons that I will be supporting the effort of my distinguished colleague from Washington, Mr. HICKS, in his effort to delay any funding for production of an aircraft carrier until the matter has been completely reviewed. I urge my colleagues to join us in this action. The following information should be very convincing in its support of this action:

A CRITICAL ANALYSIS OF THE CVNX STUDY GROUP REPORT OF JANUARY 1976

INTRODUCTION

This analysis has been prepared in accordance with your request for a critical review of the *CVNX Characteristics Study Group Report* of January 1976, published by the Office of the Chief of Naval Operations. The analysis points out possible shortcomings and inconsistencies in the report, as requested, and this may give the impression that the reviewer feels the report is poorly done. That is not the case. The study group has done a highly professional job of presenting the findings of their study, and their report will be a valuable addition to our understanding of the issues and facts underlying the decision which faces us about the acquisition of replacements for our Forrestal Class aircraft carriers.

Principal strengths in the report are the discussion of aircraft carrier hull sizing factors, particularly the identification of the dominant sizing factors, and the presentations of air combat capabilities and cost comparisons which provide insights into the complexity of selecting suitable aircraft carrier design features. Significant weaknesses in the report, explained in more detail in the paragraphs that follow are:

The future need for aircraft carriers is treated entirely by implication. There is ample discussion of our present need for carrier-based tactical air power, but scant discussion of how long we will continue to need it, or alternative ways of performing tasks now assigned to carrier-based tactical air.

The study guidelines appear to have unduly restricted the scope of the study by calling for a ship "capable of operating modern aircraft across all the Navy's missions."

The report does not address the choice of propulsion plants in sufficient detail for the reader to understand why the nuclear power plant alternatives presented are the only ones considered. Some of these points may be addressed more fully in a classified supplement to the report of the study group which has not yet been issued.

DETAILED COMMENTS

Section I: Role of the aircraft carrier in support of national policy

This section poses the questions: What is the role of the aircraft carrier in the future? How many do we need? When should the next one be built? What should be the characteristics of the next carrier? It answers, essentially, that there should be no real change from today's solutions to any of these questions. The requirement into the indefinite future for high performance manned aircraft flying from aircraft carriers is treated as a given in this section, and throughout the report. This unsupported assumption influences an unwritten finding that one-for-one replacements will be needed for the Forrestal Class carriers as they become due for retirement.

Section II: Aircraft carrier program history

This section accepts the unwritten finding of Section I that one-for-one replacement of Forrestal Class carriers upon their retirement is required, and shows the necessary schedule. The requirement of Title VIII, Department of Defense Appropriation Authorization Act, 1975, Public Law 93-365, is cited as dictating that the replacements be nuclear-powered and is accepted without comment other than that studies conducted in 1974 and 1975 of all feasible nuclear and oil-fired designs showed a nuclear-powered Nimitz Class carrier would be the lowest cost alternative available to maintain "sufficient capability in the carrier forces." The issue of nuclear power vs. conventional oil-fired propulsion is not addressed further in the report, although there are many instances where nuclear power plant design constraints heavily influence other choices in the trade-offs presented.

Section III: Recent study results

This section is the body of the report. Comments will be made concerning the major subdivisions of this section in sequence.

Study Guidelines. The guidelines quoted in this subsection predetermine that the report will find that a ship very similar to Nimitz is required.

The statement that "The ship which results will be capable of operating *modern* aircraft across *all* the Navy's missions" (emphasis added) implies that the carrier must be able to operate F-14 and heavy attack aircraft and be able to survive in the most severe threat environment a naval force can be expected to face today, that is, the saturation attack conducted by coordinated land, air, ship and submarine opposition near the Soviet homeland. The study group is reminded that the CVNX will comprise the larger part of the carrier force after the year 2000, and "this carrier must be able to operate as a principal unit of the Navy." With these guidelines the subsequent finding that a Nimitz-like follow-on class is required is assured.

Summary Conclusions: The conclusions predictably find it would be more cost effective to procure "as many as three additional Nimitz Class carriers rather than adopt other alternatives." Conceptual development would be continued while the three Nimitz Class carriers are being built to ensure design advantages to be gained from technological advances in the inventory of aircraft and weapons systems would be available for future carriers. This recognizes that by 1992 when the third of these proposed follow-on Nimitz Class carriers would probably be delivered, the design will be obsolescent and a new design would by then be imperative. (Nimitz was authorized in the FY 1967 shipbuilding program.)

Method. The study did not consider a conventionally powered alternative. Conceptual model A ship is slightly larger (by 4000 tons) than the conventionally powered Midway class carriers which have three elevators, two steam catapults, four or five arresting wires, and speeds over 30 knots. Midway's current air wings number about 75 aircraft compared with about 100 in the Nimitz wing.

Aircraft Carrier Hull Sizing. The discussion of factors affecting hull size is factual and straightforward. Concerning the trade-offs discussed in considering the dominant factors influencing the various study alternatives the following comments are offered:

As discussed in the report, the types of aircraft and size of the air-wing needed depend on projected missions of the ship. Since the study guidelines directed the group to come in with a ship capable of operating "across all the Navy's missions" the only acceptable air-wing size would be the Nimitz model.

The discussion of aviation fuel capacity omits consideration of fuel for any conventionally powered escorts that may accompany the carrier. (Escorts can burn the same fuel as jet aircraft.) Navy's planning before Title VIII envisioned four nuclear powered and eight conventionally powered carriers with similarly powered escorts to accompany each carrier. The impact of Title VIII on the escort building program is still unresolved. However the Navy's 1977 shipbuilding request asks for funding for the lead-ship of a conventionally powered guided missile destroyer class of carrier escorts (total number as yet unspecified). This indicates the original plan that nuclear powered carriers be accompanied by nuclear powered escorts may no longer be current. If this is so, the contention that aviation fuel requirements do not control the size of a nuclear powered carrier may not be valid.

As previously noted, the study does not consider a conventionally powered alternative.

Subsystem Alternatives Selected. The reasoning behind selections made is presented clearly and is straightforward. The following comments are offered concerning some of the selections:

The decision not to install AEGIS missile system reflects adverse experience with Terrier installed on some Forrestal class carriers. The decision to forego the considerable advantages of the SPY-1 radar, is less easily understood. This radar system, with integrated command and control, was developed as part of the AEGIS fleet air defense program. It offers quantum improvement in detection and automatic multiple target tracking needed for all-weather fleet air operations in a countermeasure environment and would be able to replace, with significant increase in performance, a number of independent systems. The cost effectiveness tradeoff underlying this decision is not shown, so its wisdom cannot be evaluated.

The postulated 9% reduction in manpower is very modest when compared to the reductions achieved in other recent ship designs. For example, DD-963 uses 28.5% less manpower than its predecessor, DD931; FFG-7 uses 50.8% less than FFG-1; and the nuclear powered cruiser CGN-38 saves 19.4% over CGN-37. This comparison is perhaps the most significant indication that little innovation is included in the conclusions and recommendations of the study group.

There is a curious inconsistency between the list of "austerity reductions" and the obvious intent of the study guidelines that the CVNX be a "high mix" (high unit capability) ship. Although some of these reductions will result in inconvenience, without particular reduction in capability, some, such as elimination of the boat and aircraft crane, burton and warping winches and small boats, represent a reduction in capability. The small weight (350 tons) and cost ($8M) involved in austerity group 1 in a ship of over 50,000 tons costing over $2B give the impression the study group was straining at a gnat in this part of its report.

Ship characteristics and capabilities comparison

For comparison with table III-4, the following characteristics of USS MIDWAY class carriers are furnished: (Source: Jane's Fighting Ships 1975-76).

Dimensions

Length on WL, 900 feet.
Beam at WL, 121 feet.
Draft (below WL), 35.3 feet.

Displacements

Standard, 52,500.

Propulsion

Plant, Conventional Steam Plant.
No. of Shafts, 4.

Aviation Features

No. Aircraft, 75 (today's a/c-comparable No. on board Nimitz is about 100).
No. a/c Elevators, 3.
No. Steam Catapults, 2.
Arresting Gear, 4 or 5 wires.

Manning

Air Wing	1,800
Ship	2,710
Total	4,510

CVNX Air Combat Capability Comparison. This section of the report predictably, and accurately, demonstrates that an air wing of approximately the size embarked in Nimitz is necessary to operate "across all the Navy's missions." Over the years the Navy has optimized the carrier and her air wing for carrying out those missions and there is no denying that Nimitz represents a most cost effective and militarily effective all purpose aircraft carrier. As previously noted, the study group was not instructed to consider alternative mission assignment as a means of reducing capability requirements. However, the study does indicate that some reduction in capability is acceptable if, for example, the carrier should be restricted to a sea control role only and is not expected to be prepared for projection operations at the same time. The desirability of building such an expensive ship and deliberately limiting its operational capability is controversial.

Cost Comparisons. This section demonstrates that the acquisition cost of three follow-on Nimitz class carriers is not as high as the cost of three of any but the smallest alternative ships considered by the study group. This comparison does not include the acquisition of the air-group, the cost of which is not furnished in the report. Life cycle costs of the various alternative ships, both with and without the air group, are available and indicate significant savings in funds over the life of the ship could occur because of reduced operating costs of smaller ships and air wings. The savings are almost, but not quite, proportional to the size of the air wing. The point is made that a full-sized Nimitz carrier, with air wing reduced to the size of the wing for the smallest alternative ship considered, would be slightly less costly over its 30 year life cycle than the smallest alternative ship. All costs quoted are sensitive to the shipbuilding schedule postulated in the study report which would have required advance funding for long lead nuclear components in FY 1977. Since these funds were not requested in the FY 77 budget, the cost information is probably not entirely accurate, although the findings of the study group relative to cost effectiveness of the Nimitz alternative over all other alternatives considered is probably still valid.

Section IV conclusions

As previously noted, the conclusion that a Nimitz class follow-on is the best choice is the natural, and probably accurate result of a study that was directed to choose a ship "capable of operating modern aircraft across all the Navy's missions." This is true, particularly, if nuclear power is accepted as a "given" before commencing the study. It is disturbing to note that part of the rationale for ships of high unit capability (purchased at high unit cost) is that funding constraints are expected to restrict force levels. This implies that the study group believes that any savings in unit cost of ships would probably be applied to satisfy some other DOD requirements, possibly non-Navy, rather than to increase force levels. If this belief is also held by those in charge of the Navy and if the rationale were to be applied across the board, it could have a profound effect on the Navy's force structure.

[From CVNX Characteristics Study Group Report]

SECTION III: RECENT STUDY RESULTS

STUDY GUIDELINES

On 21 August 1975, the Chief of Naval Operations (CNO) formed a CVNX Characteristics Study Group under RADM Forrest Petersen, USN, with membership listed in Appendix B.

CNO direction was issued to the CVNX Study Group to determine what ship of a distinctly new class can be obtained fulfilling the guidance that:

"The ship which results will be capable of operating modern aircraft across all the Navy's missions . . . Lead ship cost not to exceed what a NIMITZ repeat would cost in FY79 . . . Follow ship costs will be considerably lower. It is imperative that NAVMAT (Naval Material Command) and 05 (Deputy Chief of Naval Operations—Air Warfare) exert an extraordinary team effort to size and configure a CVNX with which we can be satisfied as the larger part of our carrier force after the year 2000.

". . . this carrier must be able to operate effectively as a principal unit of the Navy. Close attention must be given to the selection of major items of equipment such as numbers and types of catapults and elevators; command, control and communications, and defensive weapons suite. Innovative approaches . . . should be explored."

SUMMARY CONCLUSIONS

After developing and examining carrier conceptual models through the size range feasible for operation of modern aircraft, the Study Group examined characteristics, judged combat capabilities, estimated costs, and concluded that:

Nuclear powered carriers for procurement in the late 1970s or early 1980s which would be capable of operating modern naval aircraft across all the Navy's mission areas can be designed in tonnages that range upward from about 56,000 tons "standard displacement," about the size of the WW II ESSEX Class, but heavier.

For carrier force levels under consideration for the late 1980s (12-14 major carriers) it will be more cost effective to procure as many as three additional NIMITZ Class carriers rather than adopt other alternatives.

Conceptual development work should be continued to ensure that future aircraft carriers incorporate design advantages anticipated to be gained from technological advances in the inventory of aircraft and weapons systems as they develop.

NOTE.—"Standard displacement" is full load displacement less all fuel and reserve feed water for steam generation. USS NIMITZ (CVN-68) displaces 93,400 tons fully loaded, and has a standard displacement of 81,600 tons.

SECTION IV

Conclusions

The compounding factors of inflation, lower productivity, increased overhead, and higher profit margins have driven aircraft carrier procurement costs from approximately $450 million for ENTERPRISE (authorized in FY58) to over $2 billion for FY79 CVNX. The factors have changed as follows:

As in all heavy construction programs in the U.S., the Navy Shipbuilding Program in the 1970s is suffering under the impact of inflationary trends in labor and material. The average labor rates and material costs are expected to be 360 percent and 400 percent, respectively, greater during construction of CVNX than for the construction of ENTERPRISE.

Along with many other industries in the U.S., the shipbuilding industry has suffered a decline in experienced labor pools. The projected delivery date of October 1985 will result in a 5-year gap between carrier building programs—a disruptive effect which will make it more difficult and costly to obtain the skilled labor necessary to build the ship and which will affect nuclear component procurement schedules and costs.

Shipyard overhead rates have increased and in some cases nearly doubled since the early 1960s. Part of this increase is due to higher energy costs and part is due to new government initiated requirements such as the Occupational Safety and Health Act, the Environmental Protection Act, the Federal Energy Act for Ocean Air and Water plus Anti-Pollution Controls. Increases can also be attributed to shipbuilder decisions and programs.

Shipbuilding corporate management's search for a higher return on investment and limited shipyard competition for Navy ship construction is generating higher profit margins.

Nuclear powered carriers using existing nuclear reactor designs and suitable for operation of modern naval aircraft across all Navy mission areas can be designed in sizes that range upward from about 56,000 tons standard displacement. However, when compared to NIMITZ size carriers, at feasible force levels, smaller carriers would result in a significant reduction in operational capability (aircraft, aviation support, cata-

pults, elevators, ship speed, reliability, etc.) for a relatively small reduction in investment and operating costs.

To a great extent, unit life-cycle cost reduction options inherent in smaller carriers with smaller air wings can be applied to NIMITZ size carriers with the added advantage that full air combat potential can be relatively quickly restored by increasing the aircraft inventory.

Overall, it is more cost effective to procure modified design Nimitz Class carriers. The principal reasons are:

Projected funding levels will support a force level of not more than 13 or 14 fully capable carriers.

At force levels of 13 or 14 carriers, high individual carrier capability is required to meet tactical requirements.

Carriers significantly smaller than the Nimitz Class cannot support the practical minimum number and types of aircraft required to perform missions alone in the presence of an air threat. Nimitz size carriers provide more than twice the combat capability of the smallest practical nuclear powered alternative.

Nimitz size carriers have more flexibility to incorporate changes in characteristics that may be required during the life of the ship due to changes in the threat and new technological developments.

For a three-carrier procurement program, the cost of three Modified Nimitz size carriers is about the same as the cost of three of the smallest sized carrier concepts developed.

Practically all design-to-cost, reliability, maintainability, and operability options for a new design carrier can be incorporated in a modified design Nimitz Class carrier.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. HICKS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 195, not voting 56, as follows:

Roll No. 182

AYES—182

Abzug	Conable	Gibbons
Adams	Conyers	Goodling
Addabbo	Corman	Grassley
Allen	Cornell	Hamilton
Ambro	Cotter	Hannaford
Anderson, Calif.	Coughlin	Harkin
	D'Amours	Harrington
Andrews, N.C.	Daniels, N.J.	Harris
Andrews, N. Dak.	Danielson	Hawkins
	Dellums	Hechler, W. Va.
Ashley	Dingell	Hefner
Aspin	Dodd	Helstoski
Badillo	Drinan	Hicks
Baldus	Duncan, Oreg.	Holtzman
Baucus	du Pont	Howard
Bedell	Early	Howe
Bergland	Eckhardt	Hughes
Biester	Edgar	Hungate
Bingham	Edwards, Calif.	Jacobs
Blanchard	Eilberg	Jordan
Blouin	Evans, Colo.	Kastenmeier
Boland	Evans, Ind.	Keys
Bonker	Fascell	Koch
Brademas	Fenwick	Krebs
Brodhead	Findley	LaFalce
Brown, Calif.	Fish	Leggett
Brown, Mich.	Fisher	Lehman
Broyhill	Fithian	Levitas
Burke, Calif.	Florio	Long, Md.
Burlison, Mo.	Flowers	Lundine
Burton, John	Foley	McCloskey
Burton, Phillip	Ford, Mich.	McCormack
Carney	Ford, Tenn.	McDade
Carr	Fraser	McEwen
Chisholm	Frenzel	McHugh
Clay	Giaimo	McKay
McKinney	O'Hara	Sharp
Maguire	Ottinger	Smith, Iowa
Matsunaga	Patten, N.J.	Solarz
Mazzoli	Patterson, Calif.	Spellman
Meeds		Stark
Meyner	Pattison, N.Y.	Steiger, Wis.
Mezvinsky	Pickle	Stokes
Mikva	Pike	Studds
Miller, Calif.	Pritchard	Thompson
Mineta	Railsback	Thone
Mink	Rangel	Traxler
Mitchell, Md.	Rees	Tsongas
Moakley	Regula	Udall
Moffett	Reuss	Ullman
Moorhead, Pa.	Rodino	Van Deerlin
Mosher	Roncalio	Vander Jagt
Moss	Rosenthal	Vander Veen
Mottl	Roush	Vanik
Myers, Pa.	Roybal	Waxman
Natcher	Russo	Weaver
Neal	Ryan	Whalen
Nedzi	Santini	Wirth
Nolan	Sarasin	Wolff
Nowak	Scheuer	Yates
Oberstar	Schroeder	Young, Ga.
Obey	Seiberling	

NOES—195

Abdnor	Gonzalez	Murphy, N.Y.
Alexander	Gradison	Murtha
Anderson, Ill.	Gude	Myers, Ind.
Annunzio	Guyer	Nichols
Archer	Hagedorn	O'Brien
Armstrong	Haley	Passman
Ashbrook	Hall	Paul
Bafalis	Hammer-schmidt	Perkins
Bauman		Pettis
Beard, R.I.	Hanley	Poage
Beard, Tenn.	Hansen	Pressler
Bennett	Harsha	Preyer
Bevill	Hébert	Price
Biaggi	Heckler, Mass.	Quie
Boggs	Hightower	Randall
Bolling	Hillis	Rinaldo
Bowen	Holt	Risenhoover
Breaux	Horton	Robinson
Breckinridge	Hubbard	Roe
Brinkley	Hutchinson	Rogers
Brooks	Hyde	Rose
Broomfield	Ichord	Rostenkowski
Brown, Ohio	Jarman	Runnels
Buchanan	Jeffords	St Germain
Burgener	Jenrette	Satterfield
Burke, Fla.	Johnson, Calif.	Schulze
Burleson, Tex.	Johnson, Colo.	Sebelius
Butler	Jones, N.C.	Shipley
Byron	Jones, Okla.	Shriver
Carter	Jones, Tenn.	Shuster
Chappell	Kasten	Sikes
Clancy	Kazen	Sisk
Clausen, Don H.	Kelly	Skubitz
	Kemp	Slack
Clawson, Del	Ketchum	Smith, Nebr.
Cleveland	Kindness	Snyder
Cochran	Krueger	Spence
Cohen	Lagomarsino	Staggers
Collins, Tex.	Landrum	Stanton, J. William
Conte	Latta	
Crane	Lent	Steed
Daniel, Dan	Lloyd, Calif.	Stratton
Daniel, R. W.	Lloyd, Tenn.	Stuckey
Davis	Long, La.	Sullivan
Delaney	Lott	Symms
Derrick	Lujan	Taylor, Mo.
Derwinski	McClory	Taylor, N.C.
Devine	McCollister	Treen
Dickinson	McDonald	Waggonner
Diggs	McFall	Walsh
Downey, N.Y.	Madigan	Wampler
Downing, Va.	Mahon	Whitehurst
Duncan, Tenn.	Martin	Whitten
Edwards, Ala.	Mathis	Wiggins
Emery	Michel	Wilson, Bob
English	Milford	Wilson, C. H.
Erlenborn	Miller, Ohio	Winn
Evins, Tenn.	Mills	Wright
Fary	Minish	Wydler
Flood	Mitchell, N.Y.	Wylie
Fountain	Mollohan	Yatron
Frey	Montgomery	Young, Alaska
Fuqua	Moore	Young, Fla.
Gaydos	Moorhead, Calif.	Zablocki
Gilman		Zeferetti
Ginn	Morgan	
Goldwater	Murphy, Ill.	

NOT VOTING—56

AuCoin	Dent	Heinz
Barrett	Esch	Henderson
Bell	Eshleman	Hinshaw
Burke, Mass.	Flynt	Holland
Cederberg	Forsythe	Johnson, Pa.
Collins, Ill.	Green	Jones, Ala.
Conlan	Hayes, Ind.	Karth
de la Garza	Hays, Ohio	Litton
Macdonald	Richmond	Steelman
Madden	Riegle	Steiger, Ariz.
Mann	Roberts	Stephens
Melcher	Rooney	Symington
Metcalfe	Rousselot	Talcott
Nix	Ruppe	Teague
O'Neill	Sarbanes	Thornton
Pepper	Schneebeli	Vigorito
Peyser	Simon	White
Quillen	Stanton, James V.	Wilson, Tex.
Rhodes		Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mr. White against.

Mrs. Collins of Illinois for, with Mr. Teague against.

Mr. Richmond for, with Mr. Burke of Massachusetts against.

Mr. Metcalfe for, with Mr. Dent against.

Mr. Steelman for, with Mr. Henderson against.

Mr. LEVITAS changed his vote from "no" to "aye."

Mr. ENGLISH changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEGGETT

Mr. LEGGETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEGGETT: Page 2, line 19, under NAVAL VESSELS, after "Navy," delete "$7,378,300,000" and insert in its place, "$6,712,767,000."

Mr. LEGGETT. Mr. Chairman, this amendment that I am offering will be the only one that I offer to this bill. It is a little old $700 million amendment. I tried to make it just as simple as I possibly could.

What it does is that it cuts out the funds for two nuclear SSN-688 class quiet submarines.

I am a great proponent of submarines. The 688 is a good ship, the fastest and quietest submarine ever built. At least, I think it will be because we have not flown any of them yet.

We anticipate that the first one will be flown in 6 months, about 22 months late.

I would have preferred an alternative design that sacrifices some speed in order to gain some quietness, but this is not the issue before us today.

We have accepted the fact that these are the ships that we will buy. The question is, how quickly can they be built?

Neither of these ships, the two we are trying to cut out, can benefit from this money in fiscal year 1977. There is no way in which this additional money will buy us one ship 1 day sooner. This is what we call a paper cut. We are simply throwing money at the Defense Department for the sake of appropriating money.

As I said, the first ship has slipped 22 months and is due for delivery in June of this year. The second ship has slipped 24 months and will be delivered next February. Beyond these two, we have already contracted for 26 more, and I do not dispute two of the additional ships that the committee recommends. I just think that we are ordering them too early.

With the ones we have on order at the present time, that will take us from 719 to 720 and 721. We will have a total num-

ber of ships on order of the quiet class of 28 to date, plus two more. That is a total of 30 ships at a unit cost of about $357 million each. The ships that we have currently on order will not be completed until 1982.

The last five will not be completed until 1983. The ships that are in this bill will not be completed until 1984. I do not think we need to appropriate money this far in advance.

What is going to happen is simply this: We will fly this new 688 quiet-class submarine this summer. Admiral Rickover will go out on the ship. He will find out it is either too noisy or he will find something else, he will have a critique list that will be at least 20 or 50 pages long. That will send a ripple effect through the existing 28 ships and on the two that are in this bill. So, 30 ships at 357 million bucks per copy will then suffer a ripple effect change orders.

When we built the Polaris submarine, we had an average number of changes of 10,000 between the first ship and the last ship that was constructed. Every one of these change orders costs money.

In the Polaris program we had a balancing effect between the private shipyards and the public shipyards. We found that the public shipyards were too expensive and now we do not use public shipyards for new construction of a few ships. We have all the ships being built in two private shipyards, the shipyard in Connecticut owned by General Dynamics and the shipyard owned by Tenneco in Newport News, Va., and they are going to be the sole czar of the cost of these change orders.

In this bill there was one and a half billion dollars for growth and for cost escalation of Navy ship programs. That has been paired down by the subcommittee and its chairman in its wisdom and the full committee in its wisdom. We are not paying for all that growth this year, but that growth is there and it is a growth of over $60 million in just this past year alone in naval ship systems.

So if the Members believe in submarines and if they believe in the quiet submarine and if they want to build them at the cheapest possible cost, then let us take the two submarines out of this order, let us not spend 7 million for two.

My amendment does not relate to the Trident system, but just to the quiet attack submarines.

I served on the subcommittee with the gentleman from New York, SAM STRATTON, some years ago when the former Secretary of Defense said that 69 submarines were the maximum number of attack submarines needed. We in the committee reviewed that number.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 1 additional minute.)

Mr. LEGGETT. We reviewed this and determined that the number would be substantially higher than that.

So this 688 quiet class submarine program is in response to the recommendations of our former ASW committee. They said we needed more quiet attack submarines.

But I question whether or not this is good defense wisdom or budget wisdom to move ahead with this program this quickly.

This money really will not buy anything over the next year. We can wait and see how the change orders come along, see what their effect will be on the new contracts, and not give all of the choice to private industry to decide in their own judgment the need for change orders.

We can do this without affecting the defense posture one iota and save a total of $700 million.

Mr. Chairman, the purpose of this amendment is to delete procurement funds for two SSN-688 submarines. As you may know, the administration requested three of these ships, and the committee recommended four. Thus, my amendment would remove the committee add-on and one of the requested ships.

The 688 is a good ship. It is the fastest and quietest submarine ever built. I would have preferred an alternative design which sacrifices some speed in order to gain more quieteness, but this is not the issue before us today. We have accepted the fact that these are the ships we will buy; the question is, how quickly can they be built?

The fact is this: Neither of these ships can benefit from this money in fiscal 1977. There is no way this additional money will buy us one ship 1 day sooner. We are simply throwing money at the Defense Department for the sake of throwing money.

The first ship has slipped 22 months and is due for delivery in June of this year. The second ship has slipped 24 months and will be delivered next February. Beyond these 2, we have already contracted for 26 more, and I do not dispute 2 of the additional ships the committee recommends. So we are now talking about ships numbers 31 and 32 down the road.

Ship 31 is now planned for delivery in January 1983. If you accept the General Accounting Office's estimate of 60 months between contract and delivery, which is supported by experience, ship 31 will be ready for contracting in January 1978 which, as I am sure everyone knows, is not part of fiscal 1977. If you disagree with GAO and say the interval between contract and delivery will ultimately be less than 60 months, the contract date is even later, because there is no way these ships are going to be delivered ahead of schedule.

Moreover, my figures do not allow for the effects of the recent shipyard strike, or for the effects of adding the additional Trident as the committee has done.

So this is what it comes down to: Anyone who opposes this amendment is obliged to tell us two things: When will these ships be delivered, and when will they be contracted. If a convincing case can be presented to the effect that these ships can be contracted in fiscal year 1977, you should vote against my amendment. If it cannot, you should vote for it.

Remember one thing: If we throw money at the Pentagon which it cannot use, it will simply add it to its $72 billion stock of unexpended funds and its $19 billion stock of unobligated funds. It will use it as padding in this year's budget to make next year's seem less gargantuan by comparison. And next year they will add still more unobligatable padding, until eventually we will reach the point where we could go for a year with no defense authorization at all and let DOD live on its stored fat.

I do not say delete two ships; we are not going to get these two ships no matter what we do here today. I say let us delete this money that serves no purpose but to give the Pentagon its well-advertised cut insurance.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. LEGGETT).

Mr. Chairman, there is not really any way in which we can strike these submarines and have the same defense posture.

These are excellent submarines. They were requested by the CNO. It is true in the original request by the Navy this year that, in this request of only 16 ships—when they had previously asked for and stated that they needed 35 to 38 new ships—they had come down to a lower figure for this year. But their real needs were for the higher figure.

The committee felt since these ships were scheduled to be built at the rate of four a year, we ought to inquire about why a lesser number was being suggested as the official request.

On page 637 of the hearings I asked the CNO, "What will we get for this money?" He said his first priority, if this additional money be asked for, was in fact this particular submarine. In other words, the CNO said if they give any additional money at all in this budget, his first priority was these submarines, which the gentleman from California (Mr. LEGGETT) so cavalierly said should not be put in this budget.

Of all the things the Chief of Naval Operations wanted if we gave additional money, the one he wanted most was this particular ship. Why? Because they are excellent ships.

It takes about 5 years from the time we authorize these to get them built. One year goes in the contract to production and the keel-laying, and so forth. It takes about 5 years to do it all. So we are really just starting this ship. The ship was going to be requested anyway next year.

When the CNO was interrogated and was asked, "If you are really going to get up to the level of what you feel is essential for national defense, what would the ship be?" And he said, "This would be the ship."

So we put it back in the program. They were designed to have around 100 of such submarines, and in order to obtain the most economic and efficient construction they have to be built at the rate of about four a year.

I conclude my remarks by saying this is the ideal type of ship. It is one of the most effective in our national defense.

The CNO said we should have it if we are going to add anything to the budget.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from California (Mr. LEGGETT).

The amendment was rejected.

AMENDMENT OFFERED BY MR. CARR

Mr. CARR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARR: Page 2, line 6, after "Marine Corps," delete "$3,157,500,000" and insert in its place: "$2,987,600,000 of which none shall be used for procurement of US-3A COD aircraft, and".

Mr. CARR. Mr. Chairman, I think I have got the economy amendment that the Members can all vote for without fear that someone is going to challenge their patriotism or that someone is going to challenge them with aiding and abetting the Soviet Union.

This amendment goes to not a sophisticated, sexy weapon system like the aircraft carrier or the B-1 bomber, but rather is the result of a little investigation we made when we were going through the Program Acquisition Cost by Weapons System Manual put out by the Department of Defense. When we went through this manual very carefully, we found that the Navy desired to have a cargo plane to ferry cargo and personnel from shore to the aircraft carrier we have all been talking about, and they need one of these planes.

The old planes that they are using are wearing out. They are the C-1. They carry about six passengers. They carry cargo such as mail and other high priority cargo like aircraft parts.

The purpose of my amendment is not to oppose the Navy's having a new cargo carrying airplane, but we discovered that the plane they were suggesting had a peculiarity to it.

I have been handing out around the floor a diagram that I hope some of the Members might have and might refer to now.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I just want to say that I hope the membership of the committee will listen to the gentleman from Michigan. He has prepared one of the most devastating cases against the proposed appropriation that I have ever heard, and I hope that the Members will listen to him.

Mr. CARR. Let me capsulize it and maybe we can get down to discussion of what is involved. Essentially what the Navy is proposing to do is to take the sophisticated S-3 Viking aircraft made by Lockheed—it is sophisticated because its fuselage contains a great deal of highly technological computers and sensors and is used to detect submarines while they are submerged—and take out the computers and take out the sophisticated equipment and replace it with six seats and some cargo straps. The thing that is peculiar about this plane that is being built by Lockheed is that the cargo plane costs $2 million more per copy than the original sophisticated antisubmarine warfare aircraft. That aircraft cost $12 million a copy and this aircraft, this cargo plane which has less sophistication to it, cost $14 million per copy.

In the hearings we asked Secretary Rumsfeld and General Brown why the hamburger without the onions costs more than the hamburger with the onions, and they basically said: "We do not know, we will check on that." The Controller for DOD said it was obvious the contract would have to be scrubbed. Nevertheless we did not deal with this amendment in the full committee or in the subcommittee and until we get those answers from the Navy I propose we delete procurement of this aircraft.

My amendment does not touch the R. & D. for the aircraft but we want to take out the procurement of the aircraft until this little matter is settled.

Mr. RONCALIO. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have in Wyoming at the present time an older couple who had three children abandoned literally on their doorstep, children abandoned by their so-called guardian. These old people helped to raise these children, and as they claimed the children as dependents they drew from the social security money to help raise the children. The Civil Service Commission comes along now and is threatening criminal charges against those old people for fraud unless they remit so-called overpayments. We know of other cases where people drawing SSI plus veterans pensions and they have been threatened with jail on allegations of unjust enrichment or overpayment by the Government.

I ask: Why can Lockheed charge the United States of America twice the price for an airplane than it charges a private carrier? How can we take avionics out of an airplane, the sophisticated gear and the computerized material, an action which ought to render the plane much cheaper, and then stick Uncle Sam $2 million more for that airplane?

I commend the gentleman for the amendment, I support it, and I should think all of us should, until we get the answers to the fraud that is apparent. Maybe it is not fraud. But if the Chief of Staff cannot explain and if Secretary Rumsfeld cannot explain, then let us quietly take the item out until the matter is explained. That is all I ask.

It may be that there is simply no other way to supply the Navy with their desired, and needed, carrier onboard delivery planes. If so, so be it, but commonsense requires that we give it a look.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a somewhat dramatic presentation but it does not really address itself to the facts.

The facts are that some time ago the Navy recognized that it had an outdated antisubmarine warfare plane operating from what were then known as antisubmarine warfare carriers. The mission of that plane was to fly out and drop buoys to detect submarines and then circle over those buoys and report the information back. When we recognized the size of the Soviet submarine fleet and the threat that it posed to the United States the Navy wanted to do away with its propeller planes and develop a new jet plane.

So they developed the S-3, which was the modern Navy version of an antisubmarine warfare plane. The difficulty was that in the meantime the Navy decided to retire most and now all of its antisubmarine warfare aircraft carriers.

So the S-3, which was intended to supply a large number of aircraft carriers, now has to be used on a kind of rotating basis with attack aircraft on the large carriers.

At the same time that we retired the old antisubmarine aircraft planes, we also had to replace the cargo aircraft which were used to ferry cargo and personnel from shore to the fleet. We had to replace the cargo version of the old propeller-driven ASW plane with a cargo version of the new jet-propelled ASW plane.

I daresay some Members of this body have landed on aircraft carriers aboard these so-called COD planes and taken off in them. There is virtually no other way to get on board or off the carrier, unless one is a jet pilot.

Now what happened is that when they configure the new jet plane into a cargo version, and in the process order a much smaller number, obviously they are going to cost a lot more per plane. That is essentially what this argument is all about.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I would just point out to the committee, this is the same airplane, the same engine. It is true, it is proposed that we buy over a 2-year period 30 of these aircraft. We have already bought several dozen of these aircraft in their antisubmarine warfare version. I just do not think we can make any number of conversions to go to 30 more without a great deal of expense.

Mr. STRATTON. Mr. Chairman, I decline to yield further. I thought the gentleman had a question. I do not want the gentleman to make his argument on my time.

I think we all recognize that if we produce a smaller number of planes, it will cost more per plane than when we produce a large number. It is not just a case of taking the avionics out. You have to build a different, heavier, and stronger plane. That means rebuilding your assembly lines.

Mr. HICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if the gentleman from New York (Mr. STRATTON) would answer a question? The gentleman has heard of the aircraft system AWACS. That is an aircraft that is basically a 707 passenger or cargo airplane. They fill it with a lot of electronic equipment and a huge radar and build it for about $120 million. If they took all that equipment out of it and they sold it for a cargo airplane, does the gentleman think we should still pay $120 million for it.

Mr. STRATTON. Mr. Chairman, the gentleman from Washington makes a philosophical question. All I am familiar with is the S–3, because I had something to do with getting the S–3 built for our antisubmarine warfare operations. I know something about that plane. But I am not an expert on AWACS.

The gentleman is the expert on that and I think we have to hear from the gentleman.

Mr. HICKS. I want to know if the black boxes, the sophisticated gear on the S–3A costs any money?

Mr. STRATTON. I do not know anything about the AWACS.

Mr. HICKS. I am talking about the S–3. Does the sophisticated gear and equipment in the S–3 cost any money?

Mr. STRATTON. Let me answer the gentleman's question in this way. The gentleman is aware that one of the items we have had the most argument on in the conference committee in recent years has been the proposal to alter the configuration of the Boeing 747, built in the gentleman's district, into a cargo-carrying version that we could use in the civil reserve fleet. The proposal was to take out a lot of things in the regular 747. But we found out that it still cost a lot more money to build that military cargo version, because they had to strengthen the floors and rearrange the sidewalls and several other things just to get the ability to carry heavy cargo. So you do not always save money just taking things out. The same is true of the USA–3. It will have to carry some heavy item, they will have to redesign the floor of the plane. That is where the added cost came from, in the USA–3, just as with the 747 reconfigured.

Mr. HICKS. That would be a most remarkable situation if we would pay $120 million for a plane that is a gutted AWAC which would then be simply a 707 passenger or cargo airplane.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I think the gentleman makes an excellent point and one that the committee should understand.

That is, if we talk of the ASW and the AWACS, which is $120 million per plane, the cost of the 707, the air frame would cost how much?

Mr. HICKS. It would cost around $20 million, perhaps a little more.

Mr. DOWNEY of New York. About $20 million. That is essentially the issue here. If we take away the sophisticated ASW equipment, if the basic air frame costs the same now as it did with the ASW equipment, something has gone wrong.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding. Many of us are not familiar with all the sophisticated equipment, but I would like to ask this question: If one buys a Chevrolet or Ford or Chrysler with air conditioning, with a sophisticated sound system and with radial tires, as opposed to one that is stripped down, does one pay the same price or get a little reduction?

Mr. HICKS. One gets a little reduction.

Mr. ST GERMAIN. It seems to me that the gentleman's amendment is highly sensible.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from California.

Mr. RYAN. I still do not know a thing about this except that I would like to know what the cost is of the equipment that was taken out.

Mr. HICKS. We cannot get anybody to give that figure.

Mr. RYAN. Is it $2 or $4 million?

Mr. HICKS. It apparently does not cost anything because with it all taken out they want $2 millon more for the airplane.

Mr. RYAN. I am trying to get the net cost paid. If they take it out, I presume they cost money to put in. What were those things worth when they were manufactured?

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from Alabama.

Mr. DICKINSON. According to the information sheet I have been given here, $2.5 million is the value of the ASW and CFE equipment being removed. The difference in the cost, the reason it is going to go up, according to the information that we are given, is because they are going down on the production rate from 41 units per year to 12 units per year, which more than compensates in driving the price up due to the stretchout and inflation factors. So, it is true that we are paying more to build fewer airplanes per year than if they had continued production on the old schedule.

Mr. LLOYD of California. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment for the simple reason that I have to ask the same questions which are being asked by the gentleman who introduced the amendment. I think this air frame costing more than when it had the avionic equipment in it is an incredible question to the mind. There is no way, in my opinion, to take the basic avionic or electronics equipment out and then have the basic air frame cost more money. I have never run into that before.

Let me hasten to add that the Navy does indeed need a good COD aircraft. The one they have now, which is an ongoing aircraft, the old S2F C–1, C–2, and it is necessary to get another aircraft, but different from it and different from its method. I am not trying to design on the floor, but it would appear to me that since the Navy is seeking a new twin-engine craft and has several corporations which have submitted plans, they might incorporate that as a carrier version of their aircraft, such as the Beechcraft T–2.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I compliment the gentleman from California. It would seem to me that what we might do is purchase this aircraft with antisubmarine warfare equipment in it and then rip it out, since it would be a lot cheaper.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, lest this thing be misconstrued as a controversy between hawks and doves, I come down on the side of the gentleman's amendment.

I am greatly concerned, talking about this $13.9 billion for carrying people and a few thousand pounds back and forth from land to aircraft carrier. We have planes now that can haul two aircraft engines back and forth to the carrier. The Navy perhaps needs a new type of a plane for this general purpose. But I have not been convinced in our own hearings in the Defense Subcommittee on Appropriations that this is the answer.

It would seem to me that the better part of valor would be to put this money aside for the time being and let the Navy come back with some of the things they would really like to have in this field, because it is my understanding it is sort of a poor compromise, so far as the Navy is concerned. Let us see what would really haul these engines back and forth, and then I think I would look on it much more favorably.

Mr. LLOYD of California. Mr. Chairman, I wholeheartedly agree with my colleague.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Michigan (Mr. CARR).

Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Alabama (Mr. EDWARDS).

On a recent tour of the aircraft carrier *Nimitz* I discussed the matter of cargo planes with the admiral and he said, "Give us something that we can haul jet engines in."

That is one of the items they need to get from shore to the aircraft carrier.

This cannot do it. It does not have the capability. I think we ought to ask the Navy to come back for another suggestion.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly rise in support of the amendment. In looking at it and in weighing it, this did not come out of the R. & D. Subcommittee. But I think that the Members of the House are entitled to know some of the facts, and I would like to put into the record the comparisons of airplanes.

The US–3A Lot I recurring unit price is $7.7 million.

The S–3A Lot VI recurring unit price, $7.7 million.

When you take away the ASW Avionics, which is $1.9 million, and the reduction due to anticipated learning, $.2 million, the Stripped S–3A with US–3 line position is $5.6 million each.

The difference between the Stripped S–3A and US–3 is 37.5 percent, which is a tremendous amount.

The adjustments come about due to the impact of 2 years of escalation, at 15 percent, and the impact due to the US–3A peculiars is almost 10 percent.

The impact due to the reduction from 3.75 per month to 1 per month is 12 percent.

Other miscellaneous factors, 4 percent.

That makes it about 37 percent more for this airplane.

Mr. Chairman, I have alluded to this earlier today, and I am going to allude to it many times in the future and that is the way in which we procure. We were talking about the B–1, and now this is driven home very dramatically here. When we were producing this same basic airplane at the rate of 41 per year, we were paying approximately $12.5 million each. When we cut production to 12 per year, it runs over $13 million each, even though we have taken out the sophisticated electronics.

Let us go to the B–1 bomber, for instance. If we stretch out the production program on the B–1 bomber, as they told us last year, it would cost at least $800 million more to buy nothing. That is just if we stretch out the production.

If we stretch out the Trident submarine, as we have done, we see the same thing. We have gone from 2-1 production to 2-1-1 production, and now I do not know what the formula is because they keep changing it. But we have spent over $1 billion more by just stretching out this program.

When we come to this program here and we go from 41 per year production to 12 per year production and we take out $2½ million in electronics, then it costs more per unit for this simple cargo-carrying plane than it did for a sophisticated carrier plane because of the way in which we buy.

So I would hope that this House, whether it be in procurement or whether it be in appropriations, would get to the point where, when we decide on a weapons system, we decide it is either a "go" or a "no go." We must make a decision either that we will buy it or that we will not buy it. But once we decide, yes, we will buy it, then let us buy it at the most economical production rate so that we can get the benefit of our ability to tool up on a hot production line.

I say that because it is obvious from these facts—and they have not been refuted—that simply by cutting back the production and cutting down the numbers we are spending almost $1 million more per plane, with $2½ million less capability, because of the lower numbers we are turning off the production line. That just does not make any sense to me.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I appreciate what the gentleman is saying. Certainly when the gentleman is on the other side, he is a very formidable adversary.

However, I think the thing that has been overlooked here is that what we are faced with here, as far as production is concerned, just as the gentleman said, is that the same thing would have happened with the B–1. If that amendment would have carried, the net result would have been to increase the cost.

This plane was originally contracted for in 1969, and it cost $16.2 million a copy at that time.

Mr. BUCHANAN. Mr. Chairman, let me interrupt for just a minute.

What does that include? What is that?

Mr. STRATTON. That is the cost.

Mr. DICKINSON. There are all kinds of ways one can figure the cost of an airplane. We can get production unit cost, we can get item costs, or we can get per-unit costs.

The CHAIRMAN pro tempore (Mr. SISK). The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. DICKINSON. So, Mr. Chairman, if the gentleman wants to use the figure of $16 million, I wish he would tell me what that $16 million includes. The costs in this program vary. There are all kinds of costs.

Mr. STRATTON. Mr. Chairman, this is the same item that ends up as $12 million in the handout suggested by the gentleman from Michigan. The last order we had was for $12 million, but the original cost was $16 million, and the point is that we procured this some time ago. It was the number we ordered that enabled us to get the cost down.

Mr. DICKINSON. Mr. Chairman, since this is my time, I wonder if the gentleman would answer a question for me.

Mr. STRATTON. Mr. Chairman, if the gentleman will enlighten me on that one point, I will be glad to answer his question.

Mr. DICKINSON. I wish the gentleman would answer this question, please:

Can we justify spending over $1 million more for this airplane, with $2½ million less in electronics, as the amendment proposes?

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, both the gentleman from Alabama and I have had to acquire our information on these figures within the last few minutes, but the fact of the matter is that the big item of cost in this transport cargo plane, the COD plane, is the nonrecurring cost. They have had to restructure their line, and that is where the real cost is. It is being divided into a relatively small number of planes. We cannot stop one line of production and start up another one without its costing money.

Mr. DICKINSON. Let me say to the gentleman from New York that I know this.

But what does the gentleman mean when he says we stop a production line? What production line? This is the same basic air frame, with the same engine. It is the same airplane, even if we take out the ASW electronics.

Mr. STRATTON. No. They have to change their gates, and they will have to change the strengthening of the floor.

Mr. DICKINSON. They would only change the seats perhaps, and they would take out the electronics.

Mr. Chairman, I yield back the balance of my time.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this discussion has generated a lot of emotion and, I think, perhaps some distortion concerning the amendment and the effort to strike the funds for the carrier onboard delivery system for the Navy. I cannot imagine any Member in this chamber arguing the fact that this is an essential ingredient to enable our aircraft carriers to be effective while at sea.

They need to be resupplied with essential goods as well as personnel. Therefore, this kind of vehicle is needed. I fail to see why there should be any question about that.

It would seem to me that to arbitrarily delay this or to even cut these funds would be analogous to sending a golfer—and some of our friends here are golfers—out to the golf course without their golf clubs. Perhaps that would not improve their scores, but certainly it would prevent them from playing.

Mr. Chairman, the important point here is that this is an essential part of a carrier-based system at sea.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, the last thing we have in mind is to deny the Navy the communications necessary. If this can be done in any way, we would like to make the expenditure. It seems obvious that when there is a need, that need ought to be met if it is appropriate.

Mr. GOLDWATER. Mr. Chairman, I do not question the gentleman's thoughts as far as the need for this type of equipment is concerned, but the point has to be made that the current C–1A and C–2 aircraft that are being used to supply the aircraft carriers are really obsolete.

Many Members probably have flown in these aircraft. They are on their last legs; that is for sure. They do not meet the current requirements of the modern Navy, since in the case of the C–1A they have only a 350- to a maximum 400-mile range. They did a good job in their day, but they are outdated and outmoded and need to be replaced.

I am sure the committee would not have authorized the expenditure if there was not a need for this replacement.

It has been determined that S–3A–ASW aircraft derivative, now called the US–3A, was to be the replacement. It was selected as the most cost-effective solution to the carrier resupply requirement.

The Navy looked into this with a very careful eye, and I am sure the committee as well looked into it with a careful eye and found, after taking everything into consideration, that this is the most cost-effective vehicle for the replacement of the old aircraft.

This new aircraft will have a longer range, almost 3,000 miles. It will have a greater payload and certainly will meet the needs of a modern Navy.

There was much concern about the cost, and I am equally concerned about cost. Unfortunately, however, this forum does not, in my opinion, allow for an intelligent, indepth analysis of cost. Therefore, like my colleague, the gentleman who preceded me in the well, I must resort to some very short statements covering this whole question of cost, if I have time.

I think the persuasive arguments that our friend, the gentleman from New York (Mr. STRATTON), made should not be taken lightly. The S-3A-ASW aircraft was being procured at the rate of 40 a year. We are now only asking for one of these COD's per month, a tremendous decrease in procurement.

Obviously, we all know that when one buys fewer, there is a proportionate increase in the cost. If we want to get the cost down, then evidently we have to buy more. However, that is up to the committee, to make that decision. The fact is that we are only buying a few of these. There is nothing we can do about those costs. They go up proportionately, obviously, with the retooling and redesigning and modifying of the S-3.

AMENDMENT OFFERED BY MR. STRATTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CARR

Mr. STRATTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON as a substitute for the amendment offered by Mr. CARR: On page 2, line 13, add the following: *"Provided,* That none of the funds authorized for the US-3A aircraft shall be expended until the Secretary of Defense certifies to the Congress that no other alternative aircraft is available or more cost effective."

Mr. STRATTON. Mr. Chairman, I think this is the sensible way to go. All this substitute does is simply put a "hold" on the expenditure of any of these funds for this plane until and unless the Secretary of Defense certifies to the Congress that no other alternative aircraft is available or more cost effective.

Rather than try to make a technical decision here on the floor, as the gentleman from California (Mr. GOLDWATER), has indicated, let us leave it up to the Secretary of Defense and have him certify to us that there is no alternative plane available and none that is cheaper. And until he does, the Navy will not be able to spend this money.

I have just been supplied with the detailed figures as to the answer to the question raised by several Members as to what happened to the $2.5 millon saved by taking out the avionics. This figure is offset in this way: $1.4 million because of the reduced quantity, from 41 to 12; $432,000 in inflation; and $641,000 because of the added weight. There are only two people who ride in the antisubmarine warfare version. But there are eight people who have to fly in the cargo-carrying or personnel version. So weight must be added and restructuring is required, new jigs, and all the rest. And they all cost money.

That is where the money goes. But if the Members do not believe it from the committee, then let us have the thing studied carefully, certify it to the Congress; and if we are satisfied, then we can make the final decision at that time.

I urge the adoption of the substitute amendment.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the substitute and in favor of the amendment.

Mr. Chairman, I rise in opposition to the substitute because it involves $169 million in funds that have not really been justified to our satisfaction today.

Mr. Chairman, we all know how we have been trying for years to get a meaningful debate in the Congress on the size of the defense budget and how and at what pace and direction the defense budget should grow from year to year. We particularly tried after the Vietnam war to have Congress try to get some control over the rapidly and constantly expanding defense budget.

We thought we were making progress in this area this year and then suddenly, as the Members recall, we ran into a Presidential election year plus a great deal of information, some of which is right, some of it wrong, and most of it confusing, as to who was ahead in the defense race—the United States or the Soviet Union.

That question cannot be answered very easily. As the President indicated recently, we are not behind the Soviet Union, neither are we ahead. But that is not the point. The result of all of this has been to change the climate for reasonable debate on defense this year so that now one cannot really question the defense expenditures at all because to do so, we are told, is to threaten the security of the United States.

That puts the Defense Establishment in a good position. We again have arrived at the situation—one very reminiscent of the 1960's—that whenever one suggests cuts in defense spending, as I did, recently in the Budget Committee, right away we are told that we are going to threaten the security of the United States, that we are going to endanger major weapons systems like the B-1, which, incidentally, I supported today. I submit that in a $113 billion defense budget there are literally hundreds of millions of dollars, indeed billions of dollars which are wasteful, which are not necessary, which do not help the defense of the United States, for which a case has not been made. We have one of them here today. It is a very hot item which will give the Navy a COD capability; it will help out Lockheed—we know they are very anxious to have it done. So, we pack it in the bill because the climate is right. We are told that if we reduce defense spending we will endanger our position vis-a-vis the Russians. Nonsense. This COD elimination today will do nothing of the sort. If we find $169 million here, another $100 million there, and $100 million somewhere else, and everywhere in a thousand different items, we would begin to make genuine savings in defense expenditures. We would not threaten our capability against the Soviet Union. What we would do is to make the Department of Defense come before Congress and truly justify the need for these expenditures. The Department then would explain to us why it is that we have to buy a Navy Lockheed S-3A antisubmarine aircraft and then have an additional five more, for these COD aircraft are basically the same airplane. It is all part of one buy, even though there are some changes.

Why is it that the plane without the avionics, without the sophisticated antisubmarine warfare capability, has to cost more? I do not know the answer; neither do the Members; and until we know the answer, we should not support this authorization.

The amendment is an admission of weakness by the gentleman from New York, because he asks us to put a hooker in here. Let us say they do not get the authorization until the Secretary of Defense certifies that they have to have it and there is no other plane that will do the job. Of course, the Members know he is going to certify it. He will do it very easily.

The point is they have not made a case. Vote down this ridiculous expenditure of money until we get better information and better facts and figures.

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. DOWNEY OF NEW YORK TO THE AMENDMENT OFFERED BY MR. STRATTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CARR

Mr. DOWNEY of New York. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNEY of New York to the amendment offered by Mr. STRATTON as a substitute for the amendment offered by Mr. CARR: at the end, strike the period and add: ", and (2) the Congress, by a concurrent resolution adopted subsequent to such certification, approves such expenditure."

Mr. DOWNEY of New York. Mr. Chairman, I will be very brief. What my amendment to the Stratton substitute does is it allows, as the gentleman from New York (Mr. STRATTON) has indicated, the executive branch, in this case the Secretary of Defense, to review the COD program. All my amendment to the substitute would do is it would allow the Congress to review the actions of the executive branch, and provide by concurrent resolution our ability to approve or disapprove the actions of the Secretary of Defense.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York, I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, I have no objection to the gentleman's amendment. I would accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. DOWNEY) to the amendment offered by the gentleman from New York (Mr. STRATTON) as a substitute for the amendment offered by the gentleman from Michigan (Mr. CARR).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment, as amended, offered by the gentleman from New York (Mr. STRATTON) as a substitute for the amendment offered by the gentleman from Michigan (Mr. CARR).

The amendment, as amended offered as a substitute for the amendment was rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. CARR).

The amendment was agreed to.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. SISK, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. Moss. Mr. Speaker, the record shows that I am recorded as voting no on the amendment offered by the gentleman from Ohio, Mr. SEIBERLING. The fact is, I was committed to vote for the Seiberling amendment. My own views and convictions are supportive of the Seiberling amendment. I cannot explain the discrepancy, but I want the record to reflect my concurrence on the amendment of the gentleman from Ohio.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT, APRIL 9, 1976, TO FILE REPORT ON H.R. 12838, NATIONAL FOUNDATION ON ARTS AND HUMANITIES ACT AMENDMENTS

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight Friday, April 9, 1976, to file the committee report on H.R. 12838, as amended, to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON S. 644, CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENTS ACT OF 1975

Mr. PREYER (on behalf of Mr. STAGGERS of West Virginia) filed the following conference report and statement on the bill (S. 644) to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94-1022)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 644) to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Product Safety Commission Improvements Act of 1976".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed—

"(1) $51,000,000 for the fiscal year ending June 30, 1976;

"(2) $14,000,000 for the period beginning July 1, 1976, and ending September 30, 1976;

"(3) $60,000,000 for the fiscal year ending September 30, 1977; and

"(4) $68,000,000 for the fiscal year ending September 30, 1978.".

LIMITATIONS ON JURISDICTION

SEC. 3. (a) Section 2(2) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471(2)) is amended by (1) striking out subparagraph (B), and (2) redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) Section 3(a)(1)(D) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(D)) is amended by striking out "economic poisons" and inserting in lieu thereof "pesticides".

(c) Section 2(f)2 of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(2)) is amended by inserting immediately before "but such term" the following: "nor to tobacco and tobacco products,".

(d) Section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)) is amended by (1) inserting "other" before "limitations" in the last sentence, and (2) inserting before such sentence the following: "Except for the regulation under this Act or the Federal Hazardous Substances Act of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to section 30 of this Act to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in section 845(a)(5) of title 18, United States Code.".

(e) The Consumer Product Safety Commission shall make no ruling or order that restricts the manufacture or sale of firearms, firearms ammunition, or components of firearms ammunition, including black powder or gunpowder for firearms.

(f) The second sentence of section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)) is amended by (1) striking out "of the Administrator of the Environmental Protection Agency and"; and (2) striking out "Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970" and inserting in lieu thereof "Federal Food, Drug, and Cosmetic Act (15 U.S.C. 301 et seq.)".

BUDGET AND EMPLOYEE PROVISIONS

SEC. 4. (a) Section 4(f) of the Consumer Product Safety Act (15 U.S.C. 2053(f)) is amended by adding at the end thereof the following new paragraph:

"(3) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairman without the prior approval of the Commission.".

(b) Section 4(g) of such Act (15 U.S.C. 2053(g)) is amended by (1) striking out "full-time" in paragraph (2) and inserting in lieu thereof "regular", and (2) adding after such paragraph the following new paragraphs:

"(3) In addition to the number of positions authorized by section 5108(a) of title 5, United States Code, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 or title 5, United States Code, may place a total of twelve positions in grades GS-16, GS-17, and GS-18.

"(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.".

ACCOUNTABILITY

SEC. 5. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following new subsection:

"(i) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1978, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perfom, a discretionary function on the part of th. Commission or any employee thereof before January 1, 1978, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the

statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform with unreasonable.".

(b) Section 32 of such Act (15 U.S.C. 2081) is amended by adding at the end the following new subsection:

"(c) No funds appropriated under subsection (a) may be used to pay any claim decribed in section 4(i) whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

SAMPLING PLANS

SEC. 6. Section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) is amended by (1) inserting "(1)" immediately after "(a)", (2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and (3) adding at the end the following new paragraph:

"(2) No consumer product safety standard promulgated under this section shall require, incorporate, or reference any sampling plan. The preceding sentence shall not apply with respect to any consumer product safety standard or other agency action of the Commission under this Act (A) applicable to a fabric, related material, or product which is subject to a flammability standard or for which a flammability standard or other regulation may be promulgated under the Flammable Fabric Act, or (B) which is or may be applicable to glass containers.".

STANDARDS DEVELOPMENT

SEC. 7. (a) The last sentence of section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended to read as follows: "An invitation under paragraph (4)(B) shall specify the period of time in which the offeror of an accepted offer is to develop the proposed standard. The period specified shall be a period ending 150 days after the date the offer is accepted unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.".

(b) Section 7(e)(1) of such Act (15 U.S.C. 2056(e)(1)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard for a consumer product and if—

"(A) the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, or

"(B) the development period (specified in paragraph (3)) for such standard ends,

the Commission may develop a proposed consumer product safety rule respecting such product and publish such proposed rule.".

(c) Section 7(f) of such Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard and if—

"(1) no offer to develop such a standard is submitted to, or, if such an offer is submitted to the Commission, no such offer is accepted by, the Commission within a period of 60 days from the publication of such notice (or within such longer period as the Commission may prescribe by a notice published in the Federal Register stating good cause therefor), the Commission shall—

"(A) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

"(B) develop proposals for a consumer product safety rule for a consumer product identified in the subsection (b) notice and within a period of 150 days (or within such longer period as the Commission may prescribe by a notice published in the Federal Register stating good cause therefor) from the expiration of the 60-day (or longer) period—

"(i) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

"(ii) publish a proposed consumer product safety rule; or

"(2) an offer to develop such a standard is submitted to and accepted by the Commission within the 60-day (or longer) period, then not later than 210 days (or such later time as the Commission may prescribe by notice published in the Federal Register stating good cause therefor) after the date of the acceptance of such offer the Commission shall take the action described in clause (i) or (ii) of paragraph (1)(B).".

ADVANCE PAYMENTS; RENT

SEC. 8. (a) Section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended by adding at the end thereof the following: "Payments under agreements entered into under this paragraph may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).".

(b) Section 27(b) of such Act (15 U.S.C. 2076(b) is amended by—

(1) striking out "and" at the end of paragraph (7), and

(2) redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

"(8) to lease buildings or parts of buildings in the District of Columbia, without regard to the Act of March 3, 1877 (40 U.S.C. 34), for the use of the Commission; and".

CONSIDERATION OF THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 9. Section 9(b) of the Consumer Product Safety Act (15 U.S.C. 2058(b)) is amended by adding at the end the following new sentence: "In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.".

ATTORNEYS' AND EXPERT WITNESSES' FEES

SEC. 10. (a) Section 10(e) of the Consumer Product Safety Act (15 U.S.C. 2059(e)) is amended by adding after paragraph (3) the following new paragraph:

"(4) In any action under this subsection the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law. For purposes of this paragraph and sections 11(c), 23(a), and 24, a reasonable attorney's fee is a fee (A) which is based upon (i) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection, and (ii) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (B) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.".

(b) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by inserting after the first sentence the following: "A court may in the interest of justice include in such relief an award of the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law.".

(c) Section 23(a) of such Act (15 U.S.C. 2072(a)) is amended (1) by striking out "and shall", and inserting in lieu thereof "shall," and (2) by striking out ", and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court." and inserting in lieu thereof ", and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees.".

(d) Section 24 of such Act (15 U.S.C. 2073) is amended by striking out the last sentence and inserting in lieu thereof the following: "In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees.".

CIVIL LITIGATION

SEC. 11. (a) The third sentence of section 11(a) of the Consumer Product Safety Act (15 U.S.C. 2060(a)) is amended to read as follows: "The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code.".

(b) The second sentence of section 22(a) of such Act (15 U.S.C. 2071(a)) is amended by striking out "(with the concurrence of the Attorney General)" and inserting in lieu thereof "(without regard to section 27(b)(7)(A))".

(c) Section 27(b)(7) of such Act (15 U.S.C. 2076(b)(7)) is amended to read as follows:

"(7) to—

"(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

"(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action, for the purpose of enforcing the laws subject to its jurisdiction;".

(d) Section 27(c) of such Act (15 U.S.C. 2076(c)) is amended by striking out "with the concurrence of the Attorney General" and inserting in lieu thereof "(subject to subsection (b)(7))".

SUBSTANTIAL PRODUCT HAZARD

SEC. 12. (a)(1) Section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)) is amended by adding at the end the following: "An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, the product with respect to which the order was issued.".

(2) Section 15 of such Act (15 U.S.C. 2064) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Commission has initiated a proceeding under this section for the issuance of an order under subsection (d) with respect to a product which the Commission has reason to believe presents a substantial product hazard, the Commission (without regard to section 27(b)(7)) or the

Attorney General may, in accordance with section 12(e)(1), apply to a district court of the United States for the issuance of a preliminary injunction to restrain the distribution in commerce of such product pending the completion of such proceeding. If such a preliminary injunction has been issued, the Commission (or the Attorney General if the preliminary injunction was issued upon an application of the Attorney General) may apply to the issuing court for extensions of such preliminary injunction.

"(2) Any preliminary injunction, and any extension of a preliminary injunction, issued under this subsection with respect to a product shall be in effect for such period as the issuing court prescribes not to exceed a period which extends beyond the thirtieth day from the date of the issuance of the preliminary injunction (or, in the case of a preliminary injunction which has been extended, the date of its extension) or the date of the completion or termination of the proceeding under this section respecting such product, whichever date occurs first.

"(3) The amount in controversy requirement of section 1331 of title 28, United States Code, does not apply with respect to the jurisdiction of a district court of the United States to issue or extend a preliminary injunction under this subsection.".

(b) Section 19(a)(5) of such Act (15 U.S.C. 2068(a)(5)) is amended by (1) striking out "and to" and inserting in lieu thereof "to", and (2) inserting ", and to prohibited acts" after "refund".

(c) Section 22 of such Act (15 U.S.C. 2071) is amended by—

(1) striking out in subsection (a) all that precedes the second sentence of such subsection and inserting in lieu thereof the following:

"(a) The United States district courts shall have jurisdiction to take the following action:

"(1) Restrain any violation of section 19.

"(2) Restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States a product in violation of an order in effect under section 15(d).

"(3) Restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule."; and

(2) striking out in subsection (b) all that precedes the second sentence of such subsection and inserting in lieu thereof the following:

"(b) Any consumer product—

"(1) which fails to conform with an applicable consumer product safety rule, or

"(2) the manufacture for sale, offering for sale, distribution in commerce, or the importation into the United States of which has been prohibited by an order in effect under section 15(d),

when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which such consumer product is found.".

PROHIBITED ACTS AND ENFORCEMENT

SEC. 13. (a) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended by—

(1) inserting "or fail or refuse to establish or maintain records," immediately after "copying of records," in paragraph (3); and

(2) striking out "or" at the end of paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or", and adding after paragraph (7) the following new paragraphs:

"(8) fail to comply with any rule under section 13 (relating to prior notice and description of new consumer products); or

"(9) fail to comply with any rule under section 27(e) (relating to provision of performance and technical data).".

(b) Section 20(a)(1) of such Act (15 U.S.C. 2069) is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

CONGRESSIONAL REVIEW OF PROPOSED ADMINISTRATIVE ACTIONS OF THE COMMISSION

SEC. 14. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"(l)(1) Except as provided in paragraph (2)—

"(A) the Commission shall transmit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives each consumer product safety rule proposed after the date of the enactment of this subsection and each regulation proposed by the Commission after such date under section 2 or 3 of the Federal Hazardous Substances Act, section 3 of the Poison Prevention Packaging Act of 1970, or section 4 of the Flammable Fabrics Act; and

"(B) no consumer product safety rule and no regulation under a section referred to in subparagraph (A) may be adopted by the Commission before the thirtieth day after the date the proposed rule or regulation upon which such rule or regulation was based was transmitted pursuant to subparagraph (A).

"(2) Paragraph (1) does not apply with respect to a regulation under section 2(q) of the Federal Hazardous Substances Act respecting a hazardous substance the distribution of which is found under paragraph (2) of such section to present an imminent hazard or a regulation under section 3(c) of such Act respecting a toy or other article intended for use by children the distribution of which is found under paragraph (2) of such section to present an imminent hazard.".

INFORMATION DISCLOSURE TO OTHER GOVERNMENTAL BODIES

SEC. 15. Section 29 of the Consumer Product Safety Act (15 U.S.C. 2078) is amended by adding at the end thereof the following new subsection:

"(e) The Commission may provide to another Federal agency or a State or local agency or authority engaged in activities relating to health, safety, or consumer protection, copies of any accident or investigation report made under this Act by any officer, employee, or agent of the Commission only if (1) information which under section 6(a)(2) is to be considered confidential is not included in any copy of such report which is provided under this subsection; and (2) each Federal agency and State and local agency and authority which is to receive under this subsection a copy of such report provides assurances satisfactory to the Commission that the identity of any injured person and any person who treated an injured person will not, without the consent of the person identified, be included in—

"(A) any copy of any such report, or

"(B) any information contained in any such report,

which the agency or authority makes available to any member of the public. No Federal agency or State or local agency or authority may disclose to the public any information contained in a report received by the agency or authority under this subsection unless with respect to such information the Commission has complied with the applicable requirements of section 6(b).".

JURISDICTION UNDER CONSUMER PRODUCT SAFETY ACT

SEC. 16. Section 30(d) of the Consumer Product Safety Act (15 U.S.C. 2079(d)) is amended to read as follows:

"(d) A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under this Act only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act. Such a rule shall identify the risk of injury proposed to be regulated under this Act and shall be promulgated in accordance with section 553 of title 5, United States Code; except that the period to be provided by the Commission pursuant to subsection (c) of such section for the submission of data, views, and arguments respecting the rule shall not exceed thirty days from the date of publication pursuant to subsection (b) of such section of a notice respecting the rule.".

EFFECT ON STATE LAW

SEC. 17. (a) Section 18(b) of the Federal Hazardous Substances Act is amended to read as follows:

"(b)(1)(A) Except as provided in paragraphs (2) and (3), if a hazardous substance or its packaging is subject to a cautionary labeling requirement under section 2(p) or 3(b) designed to protect against a risk of illness or injury associated with the substance, no State or political subdivision of a State may establish or continue in effect a cautionary labeling requirement applicable to such substance or packaging and designed to protect against the same risk of illness or injury unless such cautionary labeling requirement is identical to the labeling requirement under section 2(p) or 3(b).

"(B) Except as provided in paragraphs (2), (3), and (4), if under regulations of the Commission promulgated under or for the enforcement of section 2(q) a requirement is established to protect against a risk of illness or injury associated with a hazardous substance, no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.

"(2) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect a requirement applicable to a hazardous substance for its own use (or to the packaging of such a substance) which requirement is designed to protect against a risk of illness or injury associated with such substance and which is not identical to a requirement described in paragraph (1) applicable to such substance (or packaging) and designed to protect against the same risk of illness or injury if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of illness or injury than the requirement described in paragraph (1).

"(3)(A) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with subparagraph (B), exempt from paragraph (1), under such conditions as may be prescribed in such regulation, any requirement of such State or political subdivision designed to protect against a risk of illness or injury associated with a hazardous substance if—

"(i) compliance with the requirement would not cause the hazardous substance (or its packaging) to be in violation of the ap-

plicable requirement described in paragraph (1), and

"(ii) the State or political subdivision requirement (I) provides a significantly higher degree of protection from such risk of illness or injury than the requirement described in paragraph (1) and (II) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision requirement on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such requirement, the cost of complying with such requirement, the geographic distribution of the substance to which the requirement would apply, the probability of other States or political subdivisions applying for an exemption under this paragraph for a similar requirement, and the need for a national, uniform requirement under this Act for such substance (or its packaging).

"(B) A regulation under subparagraph (A) granting an exemption for a requirement of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.

(4) Paragraph (1)(B) does not prohibit a State or a political subdivision of a State from establishing or continuing in effect a requirement which is designed to protect against a risk of illness or injury associated with fireworks devices or components thereof and which provides a higher degree of protection from such risk of illness or injury than a requirement in effect under a regulation of the Commission described in such paragraph.

"(5) As used in this subsection, the term 'Commission' means the Consumer Product Safety Commission.".

(b) Section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) is amended to read as follows:

"PREEMPTION

"SEC. 16. (a) Except as provided in subsections (b) and (c), whenever a flammability standard or other regulation for a fabric, related material, or product is in effect under this Act, no State or political subdivision of a State may establish or continue in effect a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire with respect to which the standard or other regulation under this Act is in effect unless the State or political subdivision standard or other regulation is identical to the Federal standard or other regulation.

"(b) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect a flammability standard or other regulation applicable to a fabric, related material, or product for its own use which standard or other regulation is designed to protect against a risk of occurrence of fire with respect to which a flammability standard or other regulation is in effect under this Act and which is not identical to such standard or other regulation if the Federal, State, or political subdivision standard or other regulation provides a higher degree of protection from such risk of occurrence of fire than the standard or other regulation in effect under this Act.

"(c)(1) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with paragraph (2), exempt from subsection (a), under such conditions as may be prescribed in such regulation, any flammability standard or other regulation of such State or political subdivision applicable to a fabric, related material, or product subject to a standard or other regulation in effect under this Act, if—

"(A) compliance with the State or political subdivision requirement would not cause the fabric, related material, or product to be in violation of the standard or other regulation in effect under this Act, and

"(B) the State or political subdivision standard or other regulation (i) provides a significantly higher degree of protection from the risk of occurrence of fire with respect to which the Federal standard or other regulation is in effect, and (ii) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision flammability standard or other regulation on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such flammability standard or other regulation, the cost of complying with such flammability standard or other regulation, the geographic distribution of the fabric, related material, or product to which the flammability standard or other regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar flammability standard or other regulation, and the need for a national, uniform flammability standard or other regulation under this Act for such fabric, related material, or product.

"(2) A regulation under paragraph (1) granting an exemption for a flammability standard or other regulation of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.

"(d) For purposes of this section—

"(1) a reference to a flammability standard or other regulation for a fabric, related material, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90–189); and

"(2) the term 'Commission' means the Consumer Product Safety Commission.".

(c) Section 8 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1476) is amended (1) by striking out "Whenever" and inserting in lieu thereof "(a) Except as provided in subsections (b) and (c), whenever", and (2) by adding at the end thereof the following:

"(b) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect, with respect to a household substance for its own use, a standard for special packaging or related requirement which is designed to protect against a risk of illness or injury with respect to which a standard for special packaging or related requirement is in effect under this Act and which is not identical to such standard or requirement if the Federal, State, or political subdivision standard or requirement provides a higher degree of protection from such risk of illness or injury than the standard or requirement in effect under this Act.

"(c)(1) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with paragraph (2), exempt from subsection (a), under such conditions as may be prescribed in such regulation, any standard for special packaging or related requirement of such State or political subdivision applicable to a household substance subject to a standard or requirement in effect under this Act if—

"(A) compliance with the State or political subdivision standard or requirement would not cause the household substance to be in violation of the standard or requirement in effect under this Act, and

"(B) the State or political subdivision standard or requirement (i) provides a significantly higher degree of protection from the risk of illness or injury with respect to which the Federal standard or requirement is in effect, and (ii) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or requirement on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or requirement, the cost of complying with such standard or requirement, the geographic distribution of the household substance to which the standard or requirement would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or requirement, and the need for a national, uniform standard or requirement under this Act for such household substance.

"(2) A regulation under paragraph (1) granting an exemption for a standard or requirement of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.".

(d) Subsections (b) and (c) of section 26 of the Consumer Product Safety Act (15 U.S.C. 2075) are amended to read as follows:

"(b) Subsection (a) of this section does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety requirement applicable to a consumer product for its own use which requirement is designed to protect against a risk of injury associated with the product and which is not identical to the consumer product safety standard applicable to the product under this Act if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of injury than the standard applicable under this Act.

"(c) Upon application of a State or political subdivision of a State, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a consumer product subject to a consumer product safety standard under this Act if the State or political subdivision standard or regulation—

"(1) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this Act, and

"(2) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost

of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.".

TITLE 18 PROTECTION

SEC. 18. Section 1114 of title 18, United States Code, is amended by inserting ", the Consumer Product Safety Commission," immediately after "Department of Health, Education, and Welfare".

FLAMMABLE FABRICS ACT ADVISORY COMMITTEE

SEC. 19. Section 17(a) of the Flammable Fabrics Act (15 U.S.C. 1204(a)) is amended by inserting after the first sentence the following new sentence: "The members of the Committee who are appointed to represent manufacturers shall include representatives from (1) the natural fiber producing industry, (2) the manmade fiber producing industry, and (3) manufacturers of fabrics, related materials, apparel, or interior furnishings.".

FLAMMABILITY STANDARDS AND REGULATIONS

SEC. 20. (a)(1) Subsection (d) of section 4 of the Flammable Fabrics Act (15 U.S.C. 1193(d)) is amended to read as follows:

"(d) Standards, regulations, and amendments to standards and regulations under this section shall be made in accordance with section 553 of title 5, United States Code, except that interested persons shall be given an opportunity for the oral presentation of data, views, or arguments in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.".

(2) Subsection (e)(3) of section 4 of such Act is amended by adding at the end thereof the following: "The standard or regulation shall not be affirmed unless the findings required by the first sentence of subsection (b) are supported by substantial evidence on the record taken as a whole. For purposes of this paragraph, the term 'record' means the standard or regulation, any notice published with respect to the promulgation of such standard or regulation, the transcript required by subsection (d) of any oral presentation, any written submission of interested parties, and any other information which the Commission considers relevant to such standard or regulation.".

(b) The amendments made by subsection (a) shall apply with respect to standards, regulations, and amendments to standards and regulations, under section 4 of the Flammable Fabrics Act the proceedings for the promulgation of which were begun after the date of the enactment of this act.

And the House agree to the same.

HARLEY O. STAGGERS,
LIONEL VAN DEERLIN,
BOB ECKHARDT,
RALPH H. METCALFE,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
VANCE HARTKE,
PHILIP A. HART,
FRANK E. MOSS,
WENDELL H. FORD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES L. BUCKLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 644) to amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS

Senate bill.—The Senate bill authorized to be appropriated $51 million for the fiscal year ending June 30, 1976; $14 million for the transitional quarter ending September 30, 1976; and $55 million for the fiscal year ending September 30, 1977. The Senate bill contained no authorization for the fiscal year ending September 30, 1978.

House amendment.—The House amendment authorized $51 million for the fiscal year ending June 30, 1976; $14 million for the transitional quarter ending September 30, 1976; $60 million for the fiscal year ending September 30, 1977; and $68 million for the fiscal year ending September 30, 1978.

Conference substitute (§ 2).—The conference substitute adopts the provision contained in the House amendment.

LIMITATIONS ON JURISDICTION

Senate bill.—The Senate bill modified the Commission's jurisdiction in several aspects. First, it eliminated pesticides from the Commission's jurisdiction under the Poison Prevention Packaging Act of 1970. This authority to regulate packaging for pesticides is now within the scope of the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by the Federal Environmental Pesticide Control Act of 1972). Second, it amended the Federal Hazardous Substances Act to provide that the term "hazardous substance", as used in that Act, does not include "tobacco and tobacco products". Third, it amended the Consumer Product Safety Act to remove the Consumer Product Safety Commission's jurisdiction to exercise any regulatory authority over firearms, firearms ammunition, or components of firearms ammunition under the Federal Hazardous Substances Act. The amendment did not affect the Commission's authority to regulate fireworks devices or components of fireworks devices under either the Consumer Product Safety Act or the Federal Hazardous Substances Act. Fourth, the Senate bill further amended the Consumer Product Safety Act to provide that the Commission could regulate tobacco and tobacco products to the extent that such products present an unreasonable risk of injury as a source of ignition. The Senate bill further provided, however, that the Commission could take no action under this authority which would add to any health hazards posed by tobacco or tobacco products.

House amendment.—The House amendment was similar to the Senate bill except it did not contain the amendment to the Consumer Product Safety Act which empowered the Commission to regulate tobacco or tobacco products as a source of ignition.

Conference substitute (§ 3).—The conference substitute adopts the provisions which were contained in both the Senate bill and the House amendment removing any jurisdiction of the Commission to regulate pesticides under the Poison Prevention Packaging Act of 1970, to regulate tobacco and tobacco products under the Federal Hazardous Substances Act and to regulate firearms, firearms ammunition, or components of firearms ammunition. The conference substitute does not authorize the Consumer Product Safety Commission to regulate tobacco and tobacco products as a source of ignition.

The amendment removing the Commission's jurisdiction to exercise any regulatory authority over firearms, firearms ammunition, or components of firearms ammunition, including black powder or gunpowder for firearms, does not affect the Commission's jurisdiction to regulate fireworks devices and components of such devices under either the Consumer Product Safety Act or the Federal Hazardous Substances Act.

BUDGET AND EMPLOYEE PROVISIONS

Senate bill.—The Senate bill amended section 4(f) of the Consumer Product Safety Act to require the approval of the Commission prior to the submission of requests or estimates for regular, supplemental, or deficiency appropriations by the Chairman on behalf of the Commission.

The bill also sought to remedy the ongoing dispute between the Commission and the Civil Service Commission in which the Commission refused to submit the names of their nominees for noncareer executive appointment positions (NEA) to the White House for political clearance. Under the Senate bill, the Chairman, subject to the approval of the Commission, was empowered to designate up to 25 positions within the Commission as "non-career" positions. Noncareer positions were to be ones whose duties involved (1) significant participation in the determination of major Commission policies; or (2) service as a personal assistant or advisor to the Chairman or any other Commissioner. No appointment to or removal from one of these positions was to be subject to approval by the Executive Office of the President (including the Office of Management and Budget).

Finally, the Senate bill authorized the Chairman, subject to the approval of the Commission, to place a total of 15 positions in grades GS–16, GS–17, and GS–18. These positions were to be in addition to any professional engineering positions primarily concerned with research and development and any professional position in the physical and natural sciences and medicine, and in addition to any such positions that are authorized by section 5108(a) of title 5, United States Code.

House amendment.—The House amendment contained a provision similar to the one contained in the Senate bill with respect to submission of the Commission's budget. Additionally, the House amendment authorized the Chairman, subject to the approval of the Commission, to place a total of 10 positions in grades GS–16, GS–17, and GS–18, subject to the standards and procedures described by chapter 51 of title 5, United States Code. These were in addition to any positions authorized by section 5108(a) of title 5, United States Code and in addition to any professional positions in the physical and natural sciences, medicine, and engineering.

Conference substitute (§ 4).—In addition to incorporating the provision on budget submissions, the conference substitute authorizes the Chairman, subject to the approval of the Commission, to place a total of 12 positions in grades GS–16, GS–17, and GS–18. Such appointments are to be made subject to the standards and procedures prescribed by chapter 51 of title 5, United States Code, but are in addition to any positions authorized by section 5108(a) of title 5,

United States Code, and in addition, to any professional positions in the physical and natural sciencies, medicine, and engineering.

Additionally, the conferees agreed to amend section 4(g) of the Consumer Product Safety Act to provide that the appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President. This policy once again expresses Congressional intent that this Commission be an independent regulatory agency unfettered by political influence. Appointments of officers or employees of the Commission shall be based only on professional merit and qualification.

The problem confronting the Consumer Product Safety Commission with respect to its NEA employees is an issue confronting all independent regulatory agencies. Most agencies have, and need, noncareer executive assignment (NEA) personnel. To qualify to be designated as a non-career executive assignment position, the Civil Service Commission's regulations (5 CFR 305.601(b)), provide that such a position must be one whose incumbent will—

(1) be deeply involved in the advocacy of Administration programs and support of their controversial aspects;

(2) participate significantly in the determination of major political policies of the Administration; or

(3) serve principally as a personal assistant to or adviser of a Presidential appointee or other key political figure.

Thus, according to the Civil Service Commission's regulations, no individual will be approved for an NEA position unless the incumbents' duties include "advocacy of Administration programs and support of their controversial aspects" and significant participation "in the determination of major political policies of the Administration". This is not consistent with the purpose or function of an independent agency, and the regulations are inappropriate as they are applied to these agencies.

While the conferees agreed not to incorporate the Senate provisions establishing an NEA category for the Consumer Product Safety Commission, we believe that there is a need for the creation of such positions not only for this agency, but for all independent regulatory agencies. Accordingly, we urge our colleagues on the Post Office and Civil Service Committees in the Senate and the House to give this matter their considered attention.

ACCOUNTABILITY

Senate bill.—The Senate bill amended the Federal Tort Claims Act to allow a suit against the Consumer Product Safety Commission for a claim based upon a misrepresentation, deceit, or the exercise or performance or failure to exercise or perform a discretionary function or duty which was determined, as a matter of law to be unreasonable with respect to the discretionary function or duty involved. In making such a determination, the court was required to consider the statutory responsibilities of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion. Additionally, no such claim could be made with respect to any agency action as defined in section 551(13) of title 5, United States Code. Finally, the provision was experimental in nature and was drafted to cover only an asserted misrepresentation, deceit, or exercise or performance or failure to exercise or perform a discretionary function or duty that occurred prior to January 1, 1978.

House amendment.—The House amendment contained no comparable provision.

Conference substitute (§ 5).—The conference substitute amends the Consumer Product Safety Act to provide that subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which is based upon misrepresentation or deceit on the part of the Consumer Product Safety Commission or any employee thereof, or any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Consumer Product Safety Commission or an employee thereof which was grossly negligent. As in the Senate bill, such claim cannot be made with respect to any agency action as that term is defined in section 551 (13) of title 5, United States Code. That section defines an "agency action" as including the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act. In the case of a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, the court must find, as a matter of law and based upon consideration of all the relevant circumstances (including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable. Like the Senate bill, the provision is experimental and no claim can be brought which did not arise before January 1, 1978.

The Federal Tort Claims Act defines the limited circumstances under which the United States consents to be sued. Section 2680 of title 28, United States Code, enumerates those circumstances to which that consent does not extend. By waiving subsection (a) of section 2680 (relating to claims based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty) and subsection (h) of such section (relating to claims based upon misrepresentation or deceit) suits may be brought on those claims to the extent authorized by the other provisions of the Federal Tort Claims Act and other provisions of Federal law applicable to suits against the United States. Thus, the statute of limitations and similar requirements would still apply.

Finally, the conferees agree that funds appropriated under section 32(a) of the Consumer Product Safety Act may not be used to pay any claim arising under this section whether pursuant to a judgment of a court or under an award, compromise, or settlement of such claim under section 2672 of title 28, United States Code, or any other provision of law. Such claims are to be paid from the general treasury.

The conferees do not intend that this provision chill the Commission from exercising its statutory responsibility to protect the public from dangerous products. The Commission must continue to exercise vigorous regulatory activities to accomplish its mandated responsibilities. In considering claims brought pursuant to this section, courts shall take into account the facts available to the Commission and the circumstances existing at the time of the event upon which the claim is based.

SAMPLING PLANS

Senate bill.—The Senate bill contained no provision with respect to sampling plans.

House amendment.—The House amendment provided that no consumer product safety standard promulgated under section 7(a) of the Consumer Product Safety Act shall require, incorporate, or reference any sampling plan. The House amendment provided that this limitaion did not apply with respect to any consumer product safety standard or other agency action of the Commission under the Consumer Product Safety Act applicable to a fabric, a related material, or product which is subject to a flammability standard or for which a flammability standard or other regulation may be promulgated under the Flammable Fabrics Act or which is or may be applicable to glass bottles.

Conference substitute (§ 6).—The conference substitute incorporates the House amendment with one minor alteration which would allow a consumer product safety standard under section 7(a) to incorporate a sampling plan applicable to glass "containers" rather than to glass "bottles" as provided in the House amendment. This provision relating to sampling plans does not prohibit a manufacturer from using a sampling plan as a part of its own quality control procedures. Similarly, the Consumer Product Safety Commission is not prohibited from incorporating sampling plans in a compliance testing program under section 14 of the Consumer Product Safety Act.

STANDARDS DEVELOPMENT

Senate bill.—The Senate bill amended section 7(e)(2) of the Consumer Product Safety Act to explicitly provide that whenever the Commission determined that no offeror was making satisfactory progress in the development of a standard or that the proposed standard developed by the offeror was not satisfactory in whole or in part, that the Commission itself could develop the standard or contract with third parties for such development.

House amendment.—The House amendment made several modifications to section 7 of the Consumer Product Safety Act regarding standards development. The amendment made clear that the Commission may itself develop a standard or contract with a third party for the development of a standard if the Commission determined that no offeror had submitted an acceptable proposed standard. Additionally, the House amendment extended the period provided under the Consumer Product Safety Act for the development of consumer product safety standards. The modification would have allowed the offeror 150 days after the date the offer is accepted (unless the Commission for good cause found that a different period was appropriate) to develop the proposed consumer product safety standard.

Conference substitute (§ 7).—The conference substitute incorporates the provisions of the House amendment and conforms the existing statutory timetable for the development and promulgation of consumer product safety standards accordingly.

Section 7(e) of the Consumer Product Safety Act is amended to provide that if the Commission has published a notice under section 7(b) of the Act stating its determination that a consumer product safety standard is necessary to eliminate or reduce the risk of injury associated with a consumer product and inviting persons to offer to develop a proposed standard, and either (1) the Commission has not accepted an offer to develop a standard within 30 days or (2) the development period for the standard has expired, then the Commission itself may develop a proposed consumer product safety rule. Additionally, section 27(g) of the Act would allow the Commission, in lieu of developing the proposed consumer product safety rule itself, to contract with third parties for the development of the rule. Under existing law, the Commission may develop the proposed rule itself if no offeror whose offer is accepted is making satisfactory progress in the development of the standard or the standard submitted is not satisfactory in whole or in part.

The conference substitute modifies existing law by granting to an offeror who is selected to develop a proposed consumer product safety standard 150 days within which to conduct its work. Thus, the new timetable for the development of a consumer product safety standard would be as follows:

First, the Commission under section 7(b) issues the notice of determination of need for a consumer product safety standard and invites offerors to submit proposals for the development of a standard.

Second, within 60 days, the Commission must either (1) accept an offer or offers to develop a proposed standard; or (2) publish a notice in the Federal Register terminating the proceeding; or (3) itself develop a proposed consumer product safety rule. If an offer to develop a proposed standard is accepted or the Commission itself proceeds with the development of the proposal, 150 days are allotted for such development.

Third, at the expiration of the 150 day period, either (1) the offeror must submit its proposal to the Commission; or (2) if the Commission itself has proceeded to develop the standard, the Commission must, by notice publish in the Federal Register, withdraw the notice of determination of need or it must publish a proposed consumer product safety rule.

If an offeror has submitted a proposal for a consumer product safety standard, the Commission must, within 60 days (i.e. 210 days after the acceptance of the offer), proceed to publish a proposed consumer product safety rule or terminate the proceedings.

While the Commission is authorized to extend each of the above time periods by a notice published in the Federal Register stating good cause therefor, time is of the essence in the development of product safety standards and such extensions should not be made lightly.

ADVANCE PAYMENTS; RENT

Senate bill.—The Senate bill contained no provisions with respect to advance payments, rent and seminar expenses.

House amendment.—The House bill amended section 7(d)(2) of the Consumer Product Safety Act to provide that if an offer to develop a consumer product safety standard was accepted, the Commission could contribute to the offeror's cost in developing such standard. This amendment permitted the Commission to make such contributions in advance. The amendment further authorized the Commission to lease buildings or parts of buildings in the District of Columbia and to pay travel and subsistence expenses incurred in connection with safety education seminars of the Commission by participants in the seminars.

Conference substitute (§ 8).—The conference substitute adopts the advance payments provision and the provision on leasing buildings in the District of Columbia that was included in the House amendment. The House recedes to the position of the Senate on the amendment authorizing the Commission to pay travel and subsistence expenses incurred in connection with safety education seminars of the Commission.

CONSIDERATION OF THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

Senate bill.—The Senate bill amended section 9(b) of the Consumer Product Safety Act to provide that the Commission shall consider the needs of elderly and handicapped persons to determine whether they would be adversely affected by the promulgation of any rule.

House amendment.—The House amendment amended section 9(b) of the Consumer Product Safety Act to provide that in the promulgation of a consumer product safety rule, the Commission shall consider the special needs of elderly and handicapped persons to determine the extent to which such persons would be adversely affected by such rule.

Conference substitute (§ 9).—The conference substitute adopts the House provision with a technical amendment.

ATTORNEYS' AND EXPERT WITNESSES' FEES

Senate bill.—The Senate bill amended section 10 of the Consumer Product Safety Act relating to petitions for rulemaking. Under that section, if the Commission denies a petition or fails to act within a 120 day period, the petitioner may seek a court review. The Senate bill provided that any interested person who was involved in such an action could recover the costs of suit, reasonable attorneys' fees and expert witnesses' fees, if considered appropriate by the court and in the interest of justice. Such attorneys' fees were to be based upon the actual time expended by such attorney and his or her staff in advising and representing his or her client (at prevailing rates for such services, including any reasonable risk factor component). Additionally, the Senate bill amended section 11 of the Consumer Product Safety Act relating to judicial review of consumer product safety rules. Under the Senate bill, a petitioner seeking judicial review of a consumer product safety rule could also have recovered the award of reasonable attorneys' fees, expert witnesses' fees, and costs of suit where the court determined that such award was appropriate and in the interest of justice. Such attorneys' fees were to be based upon the actual time expended by such attorney and his or her staff in advising and representing his or her client (at prevailing rates for such services, including any reasonable risk factor component).

House amendment.—The House amendment amended section 23(a) of the Consumer Product Safety Act relating to suits for damages by persons injured by a noncomplying consumer product and section 24 of the Act relating to private enforcement of product safety rules and section 15 orders. Each such provision of existing law currently allows in certain circumstances the recovery of a reasonable attorney's fee. The House amendment provided that in addition to conferring the attorney's fee, a reasonable expert witness' fee could also be recovered.

Conference substitute (§ 10).—The conference substitute incorporates the provisions of both the Senate bill and the House amendment. The conference substitute amends sections 10(e), 11(c), 23(a), and 24 to allow the court, in the interest of justice, to award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees. A reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under such sections, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

The purpose of these provisions is to enable interested persons who have rights under the Consumer Product Safety Act to vindicate those rights. They are intended to insure that the governmental system functions properly and that the great costs of litigation do not prevent the Consumer Product Safety Act from being properly administered and enforced. The provisions should be liberally construed to effectuate the purpose of these provisions.

In determining whether it is in the interest of justice to award such costs, there are various factors which the court should consider, including but not limited to the resources of the party or parties seeking such costs and the benefit which has accrued to the public by the litigation.

The provisions do not require the entry of a final order before costs may be recovered. Costs could be awarded to a successful plaintiff under these provisions where there was a final court order granting the relief requested, or as a matter of interim relief pending the outcome of the case. See *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974); *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375 (1970).

Nor do the provisions require that a party prevail in the action in order to recover costs. Such awards may be especially important where a party has prevailed on an important matter in the course of the litigation, even though they do not prevail on all the issues. See *Bradley, supra,* and *Mills, supra,* For purposes of the award of costs, it is appropriate to make awards where the parties have vindicated rights through a consent judgment, or without formally obtaining relief, or where such award is in the public interest without regard to the outcome of the litigation. *Citizens Assn.* v. *Washington,* Civ. Action No. 1944-73, Sept. 30, 1974 (U.S. Dist. Ct., D.C.); *Parham* v. *Southwestern Bell Telephone Co.,* 433 F. 2d 421 (8th Cir. 1970); *Richards* v. *Griffith Rubber Mills,* 300 F. Supp. 338 (D. Ore. 1969); *Thomas* v. *Honeybrook Mines, Inc.,* 428 F. 2d 981 (3d Cir. 1970).

The standard for awarding costs to a prevailing defendant is not the same as for a plaintiff because, if it were, the risk of bringing suit under these sections could be so great as to frustrate the purposes of the sections. However, in exceptional circumstances, costs might be awarded to defendants where they must "defend against unreasonable, frivolous, meritless, or vexatious actions * * *". *United States Steel Corp.* v. *United States,* 385 F. Supp. 346, 348 (W.D. Pa. 1974). Where plaintiff's proceeding is brought in good faith or on the advice of competent counsel, costs would ordinarily be denied to a prevailing defendant. *Richardson* v. *Hotel Corporation of America,* 332 F. Supp. 519 (E.D. La. 1971), aff'd 468 F. 2d 951 (5th Cir. 1972).

Reasonable attorneys' fees should not be reduced merely because the attorneys are salaried employees of public interest or foundation-funded law firms. Nor should the fee award be limited to the amount actually paid or owed to an attorney. It may well be that counsel will agree to take a case because counsel believes the case furthers a public interest and litigation of this sort should not have to rely on the charity of counsel. The fee should represent the reasonable value of the services rendered, taking into account all the surrounding circumstances, including, but not limited to, the time and labor required on the case, the benefit to the public, the skill demanded by the novelty or complexity of the issues, and the incentive factor.

Costs awarded under these provisions may be assessed against the United States when it is a party. Thus, for purposes of these provisions, the prohibition in 28 U.S.C. 2412 forbidding the assessment of attorneys' fees against the United States is specifically made inapplicable. The conferees intend that any costs of suit, including attorneys' and expert witnesses' fees, be paid from the general treasury.

CIVIL LITIGATION

Senate bill.—The Senate bill broadened the authority of the Commission to represent itself in civil and criminal actions. Under present law, the Commission must (except in the case of a civil action under section 12 respecting an imminent hazard) secure the concurrence of the Attorney General before it may use its own attorneys to represent itself. The Senate bill changed the Act's requirements in two respects. First, it removed from section 22 of the Act the requirement that the Commission have the concurrence of the Attorney General before representing itself in actions for injunctive enforcement (including preliminary injunctions pending section 15 hearings). Second, with respect to all other court actions (other than an action under section 12 wherein the law remained unchanged), the Senate bill authorized the Commission to initiate, prosecute, defend, or appeal civil or criminal actions through its own attorneys if the At-

torney General did not agree to represent the Commission within 45 days after receipt of a request for representation from the Commission.

House amendment.—The House amendment contained no similar provision.

Conference substitute (§ *11*).—The conference substitute retains the provisions of the Senate bill authorizing the Commission to represent itself in injunction actions under section 22 of the Act. With respect to other civil actions, the conference substitute authorizes the Commission to initiate, prosecute, defend, or appeal such actions through its own attorneys if the Attorney General does not agree to represent the Commission within 45 days of a request for representation. However, the Commission is not authorized to represent itself in appeals to the United States Supreme Court. The Solicitor General will continue to handle such appeals. The conference substitute retains existing law with respect to criminal actions.

SUBSTANTIAL PRODUCT HAZARD

Senate bill.—The Senate bill authorized the Commission to seek an injunction to restrain any person from distributing a consumer product subject to an order issued under section 15(d) of the Act. It also authorized the Commission to seize any consumer product subject to an order issued under section 15(d). Further, it made it a prohibited act for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product subject to an order under section 15(d). Identical authorities were granted to the Commission respecting products which had been refused admission into the customs territory of the United States *under section 17.*

The Senate bill also granted the district courts of the United States authority to grant a preliminary injunction prohibiting the distribution in commerce of a consumer product which the Commission had sufficient grounds to believe contained a substantial product hazard. The Commission was authorized to bring a suit for such a preliminary injunction or to request that the Attorney General bring such a suit. The bill required that the Commission show that enjoining the distribution of the consumer product was necessary to protect the public from substantial risk of injury pending the completion of a hearing under section 15 (f), and that, weighing the inequities and considering the Commission's likelihood of ultimate success, the granting of a preliminary injunction would be in the public interest.

House amendment.—The House amendment provided that an order issued under section 15(d) of the Act could prohibit the person to whom the order applied from manufacturing for sale, offering for sale, distributing in commerce, or importing the product with respect to which the order was issued. Section 19(a) was amended to make it unlawful for any person to fail to comply with such an order. The district courts of the United States were granted jurisdiction to restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing a consumer product in violation of an order under section 15(d). A consumer product whose manufacture, offering for sale, distribution in commerce, or importation had been prohibited by an order under section 15(d) was subject to seizure.

The House amendment contained no preliminary injunction authority respecting products believed to contain a substantial product hazard.

Conference substitute (§ *12*).—The conference substitute is the same as the provisions of the House amendment respecting the scope of a section 15(d) order and its enforcement through section 19 (prohibited acts) and section 22 (injunctions and seizure). It revises the provision of the Senate bill respecting preliminary injunctions.

The conferees are of the opinion that the provision in the House amendment, combined with the authorities presently found in section 15 of the Act, adequately protect the public from continued exposure to products determined to present a substantial product hazard. Presently all manufacturers, distributors, or retailers of a specific product (or a specific class of products) alleged to present a substantial product hazard may be made subject to an order issued under section 15 if such manufacturers, distributors, or retailers have had an opportunity to participate in the hearing under section 15 for the issuance of such order. Notice of such a hearing may be provided by actual notice to manufacturers, distributors, or retailers or by any other notice to such persons which meets constitutional due process requirements.

The conference substitute authorizes the Commission (or the Attorney General) to seek a preliminary injunction to restrain the distribution in commerce of a consumer product which the Commission has reason to believe presents a substantial product hazard. The Commission must have already initiated a proceeding under section 15 for the repurchase, repair, or replacement of the product. The preliminary injunction may not be in effect for longer than either 30 days or the date of the completion or termination of the section 15 proceeding, whichever occurs first. However, the Commission (or the Attorney General) may seek extensions of the preliminary injunction. Any extension is subject to the same time limitation as the original preliminary injunction. The conferees intend that the traditional standards used by the Federal courts in determining whether to issue a preliminary injunction under their equity jurisdiction shall apply. Such standards include consideration of whether irreparable harm is likely to occur if the preliminary injunction is not issued, any injury which granting the injunction would inflict on the defendant, the probability that the Commission will succeed on the merits, and the public interest. Although the Commission may represent itself in such preliminary injunction actions (without regard to section 27(b)(7)), the conferees wish to emphasize that a civil action for enforcement of an order issued under section 15 must be brought in accordance with the procedures specified in section 27(b)(7).

CONGRESSIONAL REVIEW OF PROPOSED ADMINISTRATIVE ACTIONS OF THE COMMISSION

Senate bill.—The Senate bill contained no provision with respect to congressional review of proposed administrative action of the Commission.

House amendment.—The House amendment required the Commission to transmit to the Congress each rule, regulation, and order promulgated by the Commission under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act. If neither House of Congress passed a resolution disapproving the rule, regulation, or order within a period of 30 calendar days of continuous session after the date of transmittal, the rule, regulation, or order could become effective upon the expiration of the period. The Congress could by concurrent resolution authorize a rule, regulation, or order to take effect before the expiration of the 30-day period.

Conference substitute (§ *14*).—The conference substitute requires the Commission to transmit to the Commerce Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives each proposed consumer product safety rule under the Consumer Product Safety Act, and each proposed regulation under section 2 or 3 of the Federal Hazardous Substances Act (except for regulations under section 2(q) or section 3(e) regarding imminent hazards), section 3 of the Poison Prevention Packaging Act of 1970 or section 4 of the Flammable Fabrics Act. No consumer product safety rule and no such regulation may be adopted by the Commission before the thirtieth day after the proposed rule or regulation upon which it was based is transmitted as required to the respective Committees of Congress.

INFORMATION DISCLOSURE TO OTHER GOVERNMENTAL BODIES

Senate bill.—The Senate bill contained no provision with respect to information disclosure to other governmental bodies.

House amendment.—The House amendment prescribed conditions under which the Commission may provide accident and investigation reports to other Federal agencies or State or local authorities engaged in activities relating to health, safety, or consumer protection. Copies of such reports may be provided only if confidential trade secret information is not included in such copies. Further, the agency or authority receiving the report must provide satisfactory assurance that the identity of injured persons or any one who treats an injured person will not be released to the public without the consent of the identified person. The Commission must comply with the requirements of section 6(b) of the Act before any Federal agency or State or local authority may disclose to the public any information obtained under the Act.

Conference substitute (§ *15*).—The conference substitute retains the House provision. The requirement that the Commission comply with section 6(b) prior to another Federal agency's public disclosure of information obtained under the Act is not intended by the conferees to supersede or conflict with the requirements of the Freedom of Information Act (5 U.S.C. 552 (a)(3) and (a)(6)). The former relates to public disclosure initiated by the Federal agency while the latter relates to disclosure initiated by a specific request from a member of the public under the Freedom of Information Act.

JURISDICTION UNDER CONSUMER PRODUCT SAFETY ACT

Senate bill.—The Senate bill amended section 30(d) of the Consumer Product Safety Act to provide that a risk of injury which is associated with a consumer product and which may be regulated under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may instead be regulated under the provisions of the Consumer Product Safety Act upon a determination by the Commission that such action is in the public interest.

House amendment.—The House amendment contained no corresponding provision.

Conference substitute (§ *16*).—The conference substitute provides that a risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under the Consumer Product Safety Act only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under the Consumer Product Safety Act. The rule must identify the risk of injury proposed to be regulated. Further, the rule must be issued in accordance with section 553 of title 5, United States Code, except that the period provided by that section

for the submission of data, views, and arguments is not to exceed 30 days from the date a notice respecting the rule is published in the Federal Register.

EFFECT ON STATE LAW

Senate bill.—The Senate bill amended the Flammable Fabrics Act and the Consumer Product Safety Act to make the preemption provisions in each consistent with the other. A similar uniform preemption provision was added to the Federal Hazardous Substances Act with respect to regulations issued to determine when a hazardous substance or article shall be a banned hazardous substance or article. The preemption provision regarding precautionary labeling contained in the Federal Hazardous Substances Act was not changed.

The provision added to the three Acts provided that, with two exceptions, if a Federal requirement for a product were in effect, no State or political subdivision could continue in effect or establish a requirement applicable to the same product and designed to protect against the same risk of injury or illness unless the State or political subdivision requirement were identical to the Federal requirement. The first exception permitted a State or political subdivision to have a different requirement applicable to products procured for its own use. The second exception permitted the Commission, upon application, to grant a State or local subdivision an exemption from the preemption provision if compliance with the State or local requirement would not cause the product to be in violation of the Federal requirement, if the State or local requirement provided a significantly higher degree of protection than the Federal requirement, and if the State or local requirement would not place an undue burden upon the manufacture or distribution of products in interstate commerce.

House amendment.—The House amendment was the same as the Senate bill with the following exceptions:

1. The House amendment also amended the preemption provisions of the Poison Prevention Packaging Act of 1970 and the preemption provision of the Federal Hazardous Substances Act respecting precautionary labeling to make them uniform with the other preemption provisions.

2. The House amendment permitted the States and political subdivisions to establish or continue in effect, without obtaining an exemption from the Commission, requirements designed to protect against a risk of illness or injury associated with fireworks devices or components if the requirements provided a higher degree of protection than a Federal requirement.

3. Where the Senate bill required that a State or local requirement not place an undue burden upon the manufacture or distribution of products in interstate commerce, the House amendment required that the State or local requirement not unduly burden interstate commerce. In determining if the State or local requirement will affect interstate commerce, the Commission was instructed to consider and make appropriate findings on the technological and economic feasibility of complying with such requirements, the cost of complying, the geographic distribution of the product to which the requirement would apply, the probability of other States or political subdivisions applying for an exemption, and the need for a national uniform requirement.

Conference substitute (§ *17*).—The conference substitute is the same as the House amendment with a clarifying change in the provision respecting the findings required to be made in determining if a State or local requirement will burden interstate commerce. Under the provision, the Commission is required to consider and make appropriate findings. However, the Commission in its discretion determines the appropriateness of the findings. Under section 701 of title 5, United States Code, matters committed to agency discretion are not subject to judicial review. Thus, if the Commission grants an exemption and an action is brought to determine if the Commission granted the exemption in accordance with the exemption authority, the determination of the Commission that a requirement does not unduly burden interstate commerce is subject to review, but the statutory findings made in determining if a requirement affects interstate commerce may not be reviewed to determine if they are appropriate since the decision as to their appropriateness is to be made by the Commission in its discretion. Since a determination of appropriateness of a finding necessarily includes a consideration of the nature and adequacy of the factual basis of the finding, these issues are not subject to judicial review. The decision to deny an application for an exemption is also committed to agency discretion, and findings regarding whether there is an effect on interstate commerce need not be made.

The purpose of the enumerated findings is to direct the Commission as to those factors to consider in evaluating whether there is a burden on interstate commerce. In determining whether the burden is undue, the Commission must weigh the extent of the burden against the benefit to public health and safety provided by the proposed State standard.

The conferees wish to emphasize that in determining whether a Federal requirement preempts State or local requirements, the key factor is whether the State or local requirement respecting a product is designed to deal with the same risk of injury or illness associated with the product as the Federal requirement. Even though the State or local requirement is characterized in different terms than the Federal requirement or may have different testing methods for determining compliance, so long as the Federal and State or local requirements deal with the same risk of injury associated with a product, the Federal requirement preempts a different State or local requirement. For example, a Federal requirement with respect to bicycles would preempt a different State requirement for bicycles so long as they were both designed to protect against the same risk of injury, even though the State characterized its requirement as a "motor vehicle" standard. Or a State standard designed to protect against the risk of injury from a fabric catching on fire would be preempted by a Federal flammability standard covering the same fabric even though the Federal standard called for tests using matches and the State standard called for tests using cigarettes. When an item is covered by a Federal flammability standard (including a standard continued in effect by section 11 of Public Law 90–189), a different State or local flammability requirement applicable to the same item will be preempted since both are designed to protect against the same risk, that is the occurrence of or injury from fire. If a State or local government desires to continue or put into effect its own requirement, it would have to seek an exemption from the Commission.

TITLE 18—PROTECTION

Senate bill.—The Senate bill contained no provision with respect to title 18 protection.

House amendment.—The House amendment provided protection for Commission employees assigned to perform investigative, inspection or law enforcement functions. Section 1114 of title 18, United States Code, was amended to provide penalties for any person who kills such employees when they are engaged in the performance of their official duties.

Conference substitute (§ *18*).—The conference substitute adopts the House provision.

FLAMMABLE FABRICS ACT ADVISORY COMMITTEE

Senate bill.—The Senate bill contained no provision with respect to the Flammable Fabrics Advisory Committee.

House amendment.—The House amendment amended section 17(a) of the Flammable Fabrics Act to assure that members of the National Advisory Committee representing manufacturers would include representatives from the national fiber producing industry, the manmade fiber producing industry, and manufacturers of fabrics, related material, apparel or interior furnishings.

Conference substitute (§ *19*).—The conference substitute adopts the House provision.

FLAMMABILITY STANDARDS AND REGULATIONS

Senate bill.—The Senate bill contained no provision with respect to flammability standards and regulations.

House amendment.—The House amendment amended section 4(d) of the Flammable Fabrics Act to require that standards, regulations, and amendments to standards and regulations under section 4 made in accordance with section 553 of title 5 of the United States Code, except that an opportunity for the oral presentation of data, views, or arguments was to be provided. Section 4(e)(3) of the Flammable Fabrics Act was amended to require that upon judicial review, such standards or regulations were not to be affirmed unless the findings required to be made by section 4(b) were supported by substantial evidence on the record. The Senate bill did not contain a similar provision.

Conference substitute (§ *20*).—The conference substitute adopts the House provision.

COST AND BENEFIT ASSESSMENT STATEMENTS

Senate bill.—The Senate bill required the Commission to prepare an evaluation of each rulemaking proceeding analyzing the estimated costs and benefits that were foreseeable as a result of the effective implementation of a consumer product safety rule and the apparent relationship, if any, between such costs and benefits. The Commission was also granted subpoena power to obtain cost information.

House amendment.—The House amendment contained no comparable provision.

Conference substitute.—The Senate recedes to the House position. The conferees agreed that the provision contained in the Senate bill was unnecessary because section 9(c)(1) of the Consumer Product Safety Act now requires the Commission, prior to promulgating a consumer product safety rule, to evaluate the possible effect of the rule on the cost of the product and any means of achieving the objectives of the rule while minimizing adverse effects on competition or dislocation of the manufacturing processes consistent with public health and safety.

REPORTING SUBSTANTIAL PRODUCT HAZARDS

Senate bill.—The Senate bill required a product liability insurer or independent testing laboratory which obtained information that a product may contain a substantial product hazard to report that fact to its client (not to the Commission) and to inform the client of its obligations under the Consumer Product Safety Act. The Act currently requires a manufacturer, distributor, or retailer who obtains information which reasonably supports the conclusion that his or her product contains a substantial product hazard to immediately report to the Commission. No part of the notice from the insurer or test laboratory could be admitted as evidence or used in any suit or action for damages.

House amendment.—The House amendment contained no comparable provision.

Conference substitute.—The Senate recedes to the position of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
VANCE HARTKE,
PHILIP A. HART,
FRANK E. MOSS,
WENDELL H. FORD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES L. BUCKLEY,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
LIONEL VAN DEERLIN,
BOB ECKHARDT,
RALPH H. METCALFE,
Managers on the Part of the House.

HOUR OF MEETING

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MANPOWER COMPENSATION, AND HEALTH AND SAFETY OF THE COMMITTEE ON EDUCATION AND LABOR TO SIT DURING DELIBERATIONS TOMORROW MORNING

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Manpower, Compensation, and Health and Safety of the Committee on Education and Labor may sit tomorrow morning during deliberations of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I ask what matter is so important that it requires the committee to sit tomorrow morning while the House is considering the Defense Authorization bill under the 5-minute rule?

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, we have pending before our committee H.R. 50, a very important bill, and we have witnesses who were requested to appear today, and due to the fact that we could not hear all the testimony we put them off until tomorrow morning at 10 o'clock.

Mr. BAUMAN. What bill is that?

Mr. DOMINICK V. DANIELS. It is H.R. 50, the Full Employment and Balanced Growth Act, sponsored by the gentleman from California (Mr. HAWKINS).

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may be permitted to sit tomorrow during debate under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR SUPPLEMENTAL APPROPRIATION FOR DISADVANTAGED YOUTH FOR SUMMER JOBS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-443)

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following message from the President of the United States; which was read and without objection referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Today I am formally transmitting to the Congress a request for a supplemental appropriation of $528 million which will support 888,100 jobs for disadvantaged youth this summer.

The Secretary of Labor has advised me that the unemployment picture for youth is expected to improve this year over last year. However, the problem of youth unemployment continues to be a difficult one, especially in the summer months when students are out of school and seeking work. The action I am proposing today, combined with other related summer youth programs, will mean Federal efforts will produce a summer job for 1.5 million young people.

If Congress acts in a timely fashion on this request for a supplemental appropriation, the Summer Youth Employment Program will get funds where they are needed while they can be most useful. The appropriation I am requesting will create the same number of jobs at the local level as we achieved last summer.

I have made my request to the Congress in the form of an urgent supplemental. Many areas begin their programs in May, and sufficient leadtime is required to ensure proper planning for so large a program. It is important that the employment provided to these young people be meaningful, and that the program operate with maximum efficiency.

I also want to call attention again to the importance of prompt Congressional action on a related matter—my request for $1.7 billion in supplemental funding for public service jobs under the CETA program. This request, contained in my 1977 Budget, would provide funds needed to prevent layoffs from Federally supported public service jobs programs. A number of local sponsors are already facing the prospect of terminating their programs because their funds are running out.

This public service employment program is already employing people. Whatever differences I may have with the Congress over other aspects of the job-creation issue, there is no reason why local officials and individual job holders should be held in suspense or in fear of being laid off.

Action is essential on both the summer youth and the temporary employment assistance supplemental requests. I hope the Congress will act quickly to pass both measures.

GERALD R. FORD.

THE WHITE HOUSE, *April 8, 1976.*

DISCHARGE PETITION ON JOINT INTERNAL SECURITY COMMITTEE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, I am initiating today a discharge petition to release from the Rules Committee, House Joint Resolution 518, a bill to establish a House-Senate Joint Committee on Internal Security. On January 14, 1975, the House voted to abolish the Committee on Internal Security and send its jurisdiction, files, and staff to the Judiciary Committee. You will remember that the Members were not afforded an opportunity to vote directly on the merits of the committee. Most Democrats who voted for that transfer were under the definite understanding they were not killing the vital legislative function in the field of internal security, subversion, and terrorism. Quite the opposite, many firmly believed the Judiciary Committee would and could do an adequate job in this area. Some even alleged it could do a better job. No funds have been allotted by the Judiciary Committee expressly for internal security work, nor has a subcommittee been set up to handle this important work. Nothing has been done in 15 months.

Only this week the Judiciary Committee voted to deep six the HCIS files. The involvement of the House in internal security work, as we have known it in the past, is being phased out. The Judiciary Committee even reversed the resolution of its own leaders which called for making the old HCIS files available to the Senate, adopting an amendment of our most vocal foe, Congressman DRINAN.

I particularly urge all Democratic Members who supported the Internal Security Committee over the years to sign this discharge petition. The Internal Security Committee always had a substantial majority in any direct vote on its role in Congress. In a party line vote on the adoption of our House rules in January 1975 the opponents of our committee were able to do indirectly what they never could do directly. Now is the time to correct this error. The minority forces in this body who oppose the investigation of subversion should not be allowed to dictate to the majority of this body.

Mr. Speaker, those of us who believe in the vital internal security function intend to join in a nationwide effort to urge every Member of this body to sign this discharge petition. Fifteen wasted months have been too much. Subversion, violence, radical activity, and terrorism

continue while the liberals look the other way.

TIME APPROACHES TO CONSIDER RENEWING REVENUE SHARING

(Mr. BROOKS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROOKS. Mr. Speaker, the time is approaching when the House will consider whether to renew revenue sharing. We have all been hearing for months from our mayors and other city officials about the wisdom of turning Federal dollars over to local officials.

The Government Operations Committee has recently received a most candid and sobering statement from the mayor of Madison, Wis., which I would like to share with all the Members.

Mayor Paul R. Soglin says instead of continuing revenue sharing, Congress and the executive branch should provide real solutions to our national problems. He says:

Throwing dollars at local communities is no substitute for a coherent national policy in the areas of health, housing, education, and economic and job development.

Mr. Speaker, I agree with Mayor Soglin and I include his statement in the RECORD.

STATEMENT OF MADISON MAYOR PAUL R. SOGLIN, MARCH 22, 1976

I have carefully followed the present discussions concerning the future of federal revenue sharing. Lest my comments and observations be misinterpreted, let me state at the outset that revenue sharing must be re-enacted in some form for at least another two years. I join other mayors and governors in their concern that, come January 1, 1977, we will find ourselves without a general revenue sharing bill. Should that occur, the collective damage to our nation's cities would far surpass the present crisis in New York.

This past week the National League of Cities/U.S. Conference of Mayors meeting was exclusively devoted to gaining support for the re-enactment of general revenue sharing. Those attending had the opportunity to hear President Gerald Ford and congressional leaders address the organization on the subject.

Ironically, while the meeting was supposed to further instill support for revenue sharing, it actually increased my skepticism about the program. My previous doubts about the program, coupled with this past week's review of revenue sharing, has led me to the conclusion that revenue sharing is absolutely essential in the immediate future, but is of long-range detriment to our country.

At the heart of President Ford's remarks was a statement that local officials were in a better position than anyone else to evaluate local conditions and determine how federal dollars should be spent. That statement was accompanied by the now familiar and hackneyed, but ever popular, attack on the Washington bureaucracy. The local leaders applauded profusely.

As a mayor and chief administrative official for a bureaucracy of 2,000, I am quite familiar with the difficulty encountered in making the system work. Our city is administered and managed in a more responsive fashion than most, so I feel free in noting that there are just as many unresponsive bureaucrats and red tape professionals working in the city halls and State houses represented by those who applauded the President's remarks as there are found in Washington.

I belabor this point because I have come to the conclusion that federal revenue sharing is a cop-out when it comes to managing and administering the federal bureaucracy. Revenue sharing is as much a program designed to avoid responsibility at the federal level as it is a program to place decision-making powers in the hands of the people at the local level. Simply and succinctly, the responsibility of elected officials in Washington, particularly the administrative head of government, namely the President, is to correct the bureaucracy and make it work, rather than bypass it. I strongly suggest that we keep this point in mind, because whether we like it or not, there will always be a bureaucratic system within government, and the talents of many highly professional and skilled individuals are being wasted.

Our own city's experience with the Urban Mass Transit Administration is a case in point. In that particular instance, our local transportation officials and the UMTA staff have worked together closely these last several years. Not only has the City of Madison received federal dollars for its public transportation system, but we also have an effective program. While we may have some criticisms of the bureaucracy, any negative reaction is overshadowed by the success we have encountered. Our city transportation department includes many skilled and talented people. The UMTA officials with whom we have worked include a number of skilled and talented individuals. As a result, the city has a viable transportation system that is continually being improved. Our people learn from the federal officials, the UMTA staff learns from us. As good as our staff is, we would not have developed as coherent a program if the federal government was giving us the money to spend as we wish.

Perhaps I shouldn't have said "giving us money to spend as we wish", but rather use the old phrase "throwing money at the problem". When federal revenue sharing was enacted, the pundits said they were sick and tired of throwing dollars at the problem.

I would suggest a new problem arose, namely, mayors and other officials found that they did not have the resources to effectively deal with the massive urban crisis. Consequently, our attention was shifted and the problem was no longer the crisis of the cities but local officials clamoring for attention. So now, instead of throwing money at specific topical problems, the dollars are tossed to the clamoring local officials themselves in the hope that they will be silenced.

My view in this matter may be a bit cynical, but I have come to the conclusion that the general revenue sharing program is insufficient in dealing with the problems of this country.

Throwing dollars at local communities is no substitute for a coherent national policy in the areas of health, housing, education and economic and job development.

The old categorical programs were dismissed out of hand because they didn't work. Many people never bothered to ask why they didn't work. There were many others who preferred to avoid any federal responsibility in decision-making, because it would be far easier to enact revenue sharing than to adopt a coherent federal program for this country. Perhaps we ought to choose the more difficult route of finding out what was wrong with the categorical programs and return to the days of attempting to have a national policy in these critical areas. (I suppose I may have gone a bit too far. There is one area for which we have a national policy, namely, that we will not build new housing.)

In conclusion, let me state that I believe that revenue sharing is designed to avoid dealing with two problems—one, making the federal bureaucracy work and second, developing a national program strategy for this country in the area of community development, housing and social services.

What is needed at this time is the following:

For as long as we have federal revenue sharing a new formula which would be based on poverty rather than income levels.

2. Civil rights and affirmative action enforcement in the use of federal funds.

3. Insistence upon citizen participation in the use of federal dollars.

4. Incentives for progressive state tax reform (a question which is receiving very serious consideration here in Wisconsin under the leadership of Governor Lucey), as well as incentives for communities who are willing to tax themselves to a higher degree because of their appreciation for the quality of local services.

5. A national program in the areas of housing and community development.

Consequently, I would strongly recommend the adoption of a revenue sharing proposal along the lines of the bill submitted by Congressman Fascell, which would run for two or three fiscal years. In that interim period of time we would work to reform the bureaucracy and develop workable programs in the areas of housing, community development and social services.

THE FEDERAL RESERVE REFORM ACT OF 1976: THE CASE FOR ACTION NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 15 minutes.

Mr. REUSS. Mr. Speaker, the House Committee on Banking, Currency and Housing will shortly mark up H.R. 12934, the Federal Reserve Reform Act of 1976. The bill would achieve badly needed improvement in the way monetary policy is formulated. The present influence on monetary policy by bankers would be balanced by broader representation of other elements of society with a vital stake in economic stability, employment, and growth.

The proposed changes in the Federal Reserve System, and in its relation to the executive branch and Congress, are controversial, in great part because they are little understood.

The goals of this legislation, however, are clear. They deserve the support of everyone concerned with improving the conduct of national economic policy. The goals are two:

First, we must recognize that the Federal Reserve, designed in 1913 to be a "banker's bank" to deal with periodic financial panics, is in 1976 a very different institution with a different mandate. It is the Nation's most important economic stabilization agency, the central organ of monetary policy, whose decisions affect every aspect of American economic life.

Second, there must be coordination between fiscal policy, which is made openly in debate in the executive and legislative branches, and monetary policy, which is made in the private recesses of the Federal Reserve, importantly influenced by private persons in the financial and business world.

As Prof. Milton Friedman of the University of Chicago said in committee

hearings January 22, 1976, fiscal and monetary policy "ought to be conducted in concert * * *. I do not share the view of those people who say you should have a nonpolitical monetary policy any more than you should have a nonpolitical fiscal policy."

How does the Federal Reserve Reform Act of 1976 move toward these goals?

First. By changing the 4-year term of the Chairman of the Federal Reserve Board to coincide, with a 6-month lag, with the term of the President of the United States. That way, a President would be assured of having a Chairman of his own choosing. This is relatively noncontroversial and has been endorsed by the Federal Reserve Board itself.

Second. By making the Open Market Committee independent of the commercial banks.

Today, the 12 Reserve bank presidents are nominated for 5-year terms by the boards of directors of these banks. Two-thirds of these boards of directors are selected by the member commercial banks. Five of the Reserve bank presidents then serve, in rotation, on the 12-member Federal Open Market Committee, along with the 7 members of the Fed's Board of Governors. Thus these essentially private persons have a critical voice in the determination of monetary policy.

The bill provides that these 12 bank presidents will be appointed by the President of the United States, for staggered 6-year terms, and confirmed by the Senate. Moreover, upon enactment of the bill, votes on the Federal Open Market Committee will be limited to Presidentially appointed persons. This means that until the present terms of bank presidents expire, and Presidential appointments are made, the Reserve bank presidents will not have a vote on the FOMC. They will, however, continue to serve on the FOMC and to have a full voice in these deliberations.

Proposals to limit votes on the FOMC to Presidentially appointed people have been made for some time. The Hoover Commission said in 1949:

> The present powers of the Federal Open Market Committee should be transferred to the (reorganized) Board of Governors.

The Commission on Money and Credit said in 1961 that—

> The determination of open market policy should be vested in the Board of Governors. . . . Decisions by the Board are exercises of public regulatory authority, and there should be no ambiguity about where the responsibility for them lies: it belongs exclusively in the hands of public officials.

Prof. Paul Samuelson of the Massachusetts Institute of Technology has agreed with this principle. He stated in hearings before the House Banking Committee in 1964:

> The present Open Market Committee gives too much representation to the regional banks, too little to the executive branch. ("The Federal System After 50 Years," page 1109).

And Dr. Arthur Okun, former Chairman of the Council of Economic Advisers, said in hearings before the same committee in 1968 that Congress "should consider making Reserve Bank presidents subject to Presidential appointment and Senate confirmation."

Another former member of the Council of Economic Advisers, Dr. James Tobin of Yale University, in our hearings January 28, 1976, recommended "very strongly * * * making the presidents of the 12 Federal Reserve banks Federal officials, in the full sense of the word, appointed by the President and confirmed by the Senate * * * It is anomolous that the bank presidents, given the manner of their selection and their remuneration, should now have votes on the Federal Reserve policymaking authority, the Federal Open Market Committee."

Dr. Allen Meltzer of Carnegie-Mellon testified along the same lines in our hearings:

> I go along with the suggestion that the presidents be approved by the Congress. That is because the Federal Reserve is a public agency. There is not much question about that. It is not a bank; it is a public agency. I would like to see the presidents of the Reserve Banks have greater independence, representing different ideas about how monetary policy is to be conducted with more conviction and less fear that their budgets might be cut or that the research staffs might be hampered by interference from Washington. That would be a way of getting new ideas, technical ideas, technical discussion, policy discussion at the Open Market Committee meeting.

In sum, Presidential appointment would not only make these bank presidents independent of the commercial banks, but enhance their voice as regional representatives in the Open Market Committee.

Third. By changing the makeup of the boards of directors of the Reserve Banks.

Today, the boards of directors, which nominate the bank presidents, represent a very narrow segment of the public. Six of the nine are elected by bankers who are members of the reserve district. The three class A directors are bankers. The three class B directors, also chosen by these banks, come from among persons actively engaged in "commerce, agriculture, or some other industrial pursuit." Only the three class C directors, who are designated by the Board of Governors, are conceived as being representative of a larger public.

H.R. 12934 broadens the public representation by adding three more class C directors and specifying that they shall be chosen "without discrimination on the basis of race, sex, or national origin, and with due consideration to the interests of labor, education, and consumers."

Since the Federal Reserve was established, there have been 1,042 persons appointed to these boards of directors—but not one single woman, and only four blacks.

They have reflected upper-echelon-of-society bias. A study of the 1950–70 period—by Thomas Havrilesky, William Yohe, and David Schirm in "The Economic Affiliations of Directors of the Federal Reserve District Banks," Social Science Quarterly, December 1973—showed that among the banker-elected class B directors, not a single one represented "a labor union, a consumer interest organization, or a similar nonmanagerial or nonproducer interest group."

The situation was not much better among the class C directors. Practically all, the study said, had top managerial or "ownership" status, even those from the academic and communications sector; and "unions, consumers groups, and a variety of non-profit organizations remain virtually unrepresented."

This is sad. These directors do not merely administer the Federal Reserve Banks. They also serve as policy advisers. Through them, the study points out—

> The upper reaches of American society have here a channel to the Board of Governors and the FOMC (Federal Open Market Committee.)

Monetary policy is not the private province of the financial and business world. Labor, consumers, educators, women, and minorities should not be bypassed.

Fourth. By requiring the Federal Reserve to pursue the objectives of the Employment Act of 1946—"maximum employment, production, and purchasing power (price stability)."

Fifth. By making permanent House Concurrent Resolution 133, adopted for this Congress in March 1975, which requires the Chairman of the Federal Reserve to testify before the Banking Committees of Congress every 3 months as to the Fed's projections for monetary policy for the ensuing year.

This practice has already proved extremely valuable. Fed Chairman Dr. Arthur Burns, in hearings before the Banking Committee on February 2, 1976, commented:

> Whether or not that concurrent resolution is renewed, I hope that your Committee would continue these hearings. We in the Federal Reserve would like to continue them. I think it would be a constructive thing to do.

Dr. Milton Friedman called House Concurrent Resolution 133 "the most important structural change in the formulation of monetary policy for some 40 years, since the banking acts of the mid-1930s." He said it would be "a serious mistake to let that new technique of cooperation between the Congress and the Federal Reserve expire."

A similar plea to make permanent the requirement that the Fed report to Congress "on the proposed growth rate of money that achieves the maximum growth of employment that is consistent with stable prices" was strongly voiced by Professor Meltzer of Carnegie-Mellon University.

The requirements of H.R. 12934 would make even more valuable to Congress and to the public the practice of regular reporting by the Fed. It requires the Fed to state its intentions and expectations for the ensuing 12 months, not only for monetary aggregates, but also for interest rates; and it requires reports on "the expected effects of monetary policy * * * on statistical measures of employment, production, and purchasing power (price stability)."

Such information would make clear to Congress and the public the extent to which the monetary policies of the Fed

are in accord with the general economic policies being pursued by the President and the Congress. The Fed can supply this without any way compromising its independence or the quality of its economic analysis. The Council of Economic Advisers routinely supplies this kind of information as concerns fiscal policy, in its annual report to the President and to Congress. The public is entitled to have comparable information on monetary policy.

These are important and long overdue reforms. They would temper the influence of the commercial banks on the conduct of monetary policy. They would place more responsibility where it belongs, with the elected representatives of the people.

Bankers are, after all, a special economic and social interest group. They bring a certain perspective to the value judgments they make in deciding, for instance, how much unemployment is tolerable in the interests of achieving a reduction in inflation.

Today, major economic decisions are made for the country by officials who are not elected, not appointed or confirmed by elected officials, not even responsible to elected officials. A President and a whole Congress may be repudiated by the public for mismanagement of economic policy and turned out of office. Yet the same Fed officials will continue to make half of economic policy, the monetary half, beyond the reach of the public.

Congress and the administration may try to determine a course for economic policy, only to be countermanded by the Fed.

To put the matter bluntly Professor Tobin said in committee hearings on January 28, 1976:

> The Federal Reserve has the last word and can, so far as economic consequences are concerned, undo what the Congress has done . . . Given the importance of monetary policy and its inevitable political—I use the word in its best sense—nature, basic democratic principles dictate that its makers should be responsible to the elected representatives of the people.

The reforms contained in H.R. 12934 move in that direction. They place major responsibility where it should be, with Government. At the same time, the proposed changes preserve all the independence of the Fed from passing political pressures that is necessary. The Board of Governors will still have 14-year terms. The bank presidents will have 6-year terms, instead of 5, with their prestige enhanced by Presidential appointment and Senate confirmation. Half the members of the boards of directors will still be chosen by the banks. Their terms will still be 3 years.

H.R. 12934 preserves the regional strengths of the Federal Reserve System. Boards of directors and presidents will continue to represent the region. The presidents, by virtue of their elevated method of selection, will have a stronger and more independent voice in the Open Market Committee.

The call for reform of the Federal Reserve, to make it an integral part of Government in its monetary policy function, has been heard for many years. This Congress has an opportunity to heed that call.

BORIS MIKHAILOVICH DUBROVSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MIKVA) is recognized for 5 minutes.

Mr. MIKVA. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Dubrovsky family:

BORIS MIKHAILOVICH DUBROVSKY

Birthdate: 1948.
Occupation: Electrician.
Marital Status: Married, one child.
Applied: August, 1972.
Refused: October, 1972.
Reason for Refusal: Previous army service.
Boris Mikhailovich Dubrovsky, Yarovaya 5/2, Kiev, Ukrainian SSR, USSR.
Mother: Gortul Dubrovsky, Rehov Kadesh 945/6, Migdal Emek, Israel.

Boris Mikhailovich Dubrovsky never had access to state secrets that would affect the national security of the Soviet Union. He is a simple electrician. And over five years have passed since he served in the army.

Living in Kiev with his wife and child, he has been applying for exit visas since August 1972. His only wish remains to be reunited with his mother and father in Israel.

In a letter from Israel his mother writes:

"We are the parents of Boris Mikhailovich Dubrovsky, age 28. For the past three years we have been living in Israel and have been making every effort to obtain permission to be united with him and his family in Israel.

"Our son had completed his army service six years ago, but so far has obtained no permission to emigrate to his historical homeland. The reason given has to do with his service in the army.

"During the two years he served in the military he had no access to secret weapons, nor to secret documents. He served as an ordinary electrician. Our children have written to all departments but without results.

"The family in the Soviet Union consists of three. They are in very strained circumstances. After repeated hunger strikes and demonstrations our son landed in the hospital suffering from stomach ulcers and a liver ailment. Accordingly, we turn to you with a plea to immediately join the struggle to rescue our children and hasten our union with them.

"Our children have no roof over their heads. . . . They are denied steady employment.

"As a mother, I appeal to all the Mothers of the world: Help me quickly to have my family with me. Help me."

TRUTH IN DEFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, on February 19, I circulated a letter to the membership of the House outlining the fact that in the fiscal year 1977 budget request, the administration failed to provide funding for our Minuteman III intercontinental ballistic missile. In that letter, I expressed concern that the Minuteman III was our only land-based ICBM in production, and that foreclosing our option to produce the Minuteman III by foreclosing the production line was unwise and costly especially prior to Salt II. The United States and the free world would be left without a single ICBM in production while the Soviet Union forged ahead with four new ICBM systems. The United States has not concluded a SALT II accord with the Soviet Union, and indications were that such an accord would not be forthcoming in the immediate future. Moreover, the United States had no viable replacement operational until well into the next decade. Terminating production of the Minuteman III could terminate for all practical purposes our ability to produce additional Minuteman III later in this decade, should conditions warrant further production.

I included with my February 19 letter a copy of a letter I would be sending to President Ford, urging that the decision to shut down the Minuteman III line be reversed. I invited my colleagues to join me in signing that letter.

A month later, a colleague, the gentleman from New York, TOM DOWNEY, announced his intention to initiate a "Truth in Defense" debate. His first topic for "truth" was my advocacy of continued Minuteman III production. Mr. DOWNEY circulated a letter to the membership of the House in which he contested assertions I had made in my February 19 letter.

I have responded to Mr. DOWNEY and am submitting my response for the RECORD, along with the preceding letters circulated by myself and Mr. DOWNEY. It is my hope that the Members of the House will take the time to read this correspondence. The House Committee on Armed Services had just concluded that it seems shortsighted in the extreme to close the Minuteman III production line. The facts in my response, to Mr. DOWNEY, as well as in my original February 19 letter, underscore the truth in the Armed Services Committee's conclusion that the Minuteman III production line should not be shut down in lieu of a successful SALT II negotiation.

The material referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 5, 1976.

Hon. THOMAS J. DOWNEY,
Longworth House Office Building,
Washington, D.C.

DEAR TOM: I'm writing in response to your March 18 "Dear Colleague" letter disputing the accuracy of my statements in support of continued production of the Minuteman III ICBM. Because my statements on this important issue are, I believe, firmly grounded in fact and are not in any way misleading—nor mean to be—I wanted to make the following comments to put my original statements, and your response, in the context which both deserve.

First, you state that your "Truth in Defense" bulletins will "incorporate the strictest possible standards of factual accuracy and will avoid exaggeration or selective

omission for the sake of making a point . . ." Yet the very first "fact" you select to contest my position on the Minuteman III is based upon a very selective omission. In the letter to the President which I attached to my "Dear Colleague" of February 19, I stated *twice* that the Minuteman III was our only ICBM in production. There is no way in which any Member of Congress reading my correspondence on the Minuteman III would conclude that I believed, or would have them believe, that the Minuteman III is our only ICBM. Your response clearly incorporates a selective omission for the purpose of making a point. And the point you would make (that we have other ICBMs than the Minuteman III) not only is apparent to anyone who reads the original correspondence, but buttresses my position. The Minuteman III is our only ICBM in production. We stopped producing Titans in 1964 and we stopped producing Minuteman II's in 1969. A decision to stop production of Minuteman III's precludes deployment of any new ICBM for six to eight years, by which time our initially-deployed Minuteman II missiles will be seventeen years old and our latest-deployed will be over thirteen years old. The original design specification was for three years.

I know that you have gone on record as stating that you would promptly issue a correction for a bulletin which contained an error. I think it is appropriate to correct the omission which creates the impression I am saying the Minuteman III is our only ICBM.

We both agree that the new MX ICBM will not be available until the next decade. You state, however, that within three years we will be able to replace the Minuteman III warhead, the Mark 12, with the improved warhead, the Mark 12A. This argument is predicated upon a commitment that has not been made by Congress and can not be assumed. The Mark 12A program is now in the R&D phase and was, in fact, *delayed* last year. No decision has been made on production. Were Congress to go ahead with full production of the Mark 12A, as your argument assumes, your time frame is still off. It will be several years beyond first deployment before the Minuteman III force can be fully converted to the Mark 12A. The accuracy improvement program which you mention, and which is expected to accompany the Mark 12A, is not completed, and has not been validated through testing. It will take more than the three year time frame you cite to produce the high-confidence accuracy we seek in the new Minuteman III.

By contrast, we could deploy additional Minuteman III within one year, utilizing available test and spare assets and pre-surveyed sites, provided the production line remains open to replenish the supply. You misread the evidence in stating that the Minuteman III deployment could not take place for several years. The point of my original "Dear Colleague" correspondence was that Congress should keep the Minuteman III production line open to avoid a technology loss and to preclude a dangerous strategic force asymmetry before Congress has made a commitment to the successor ICBM system, and before this new system is in a more final operational configuration.

You state that the Mark 12A and improved accuracy will have approximately seven times the hard target kill power of the current Minuteman III. I have been unable to substantiate this assertion. My own computations place the figure closer to 2½ to 3 times more capability.

You state that the Mark 12A and accuracy improvements will combine to give the Minuteman III many times over the hard target capabilities of the Soviet ICBM forces. The error in your "FACT #4" is twofold: 1) You make an assumption concerning the Mark 12A which cannot be substantiated. Again, I point out that we are not now deploying the Mark 12A, we may not deploy the Mark 12A for quite a few years, indeed, we may not deploy the Mark 12A at all. 2) You compare what you presume to be the capabilities of the Mark 12A (if and when we get it) with the capabilities of 4 ICBM systems which the Soviets *already have*. As if this is not misleading and useless enough, your comparison of capabilities fails to take into account the fact that the Soviet Union can hardly be expected to stand still in the realm of ICBM technology. In the time it will take us to acquire the Mark 12A (if we do indeed opt to acquire it) the Soviets will be improving upon the capabilities of the 4 ICBM systems you mention: You adduce, for the purposes of comparison, a capability you project the United States to have in the future without making a similar future projection of capability for the Soviet Union. (The test data you used to compute capabilities for the 4 Soviet ICBM systems is already outdated. The fact is that the Soviets are aggressively pursuing accuracy improvements and there is no reason to assume they will not deploy a vehicle with comparable Mark 12A accuracy in the not-so-distant future regardless of what the U.S. does with its ICBMs). In short, for the sake of making a point, you have juxtaposed something we do not have now with something the Soviets not only have right now, but are improving upon. If you stopped comparing apples and oranges, and started comparing apples and apples, the figures slip dramatically against the United States.

The comparisons you make in your "FACT #4" are not even a competent academic exercise. But more important than these figures are the trends, a point to which I have already alluded, and which cannot be ignored in making conclusions you are attempting to make in "FACT #4."

Soviet missiles exhibit great potential for improvement in hard target capability. The Soviets continue to deploy an array of new, flexible systems which have the potential of up to 8 times the throw weight of our Minuteman III. These new systems are not at this time as technically proficient as our own, but the Soviets are forging ahead with accuracy improvements, at a time when this nation chooses to restrain its ICBM initiatives. You say you cannot find any unclassified "fifth new system." I suggest you look harder, for I was giving a conservative estimate of Soviet ICBM's in my "Dear Colleague" letter. The fact is there is evidence the Soviets may be pushing ahead with the development several new ICBM systems beyond the ones I mentioned.

General Brown recently testified before the Defense Appropriations Subcommittee, "It now appears that we underestimated the scope and intensity of the Soviet ICBM program since both missiles (the SS–17 and SS–19) have been deployed" in addition to the SS–18 which is "capable of destroying any known fixed target." Since we were unable to successfully predict the scope and intensity of Soviet ICBM deployment, it does not make any sense to terminate Minuteman III production, thus foreclosing our options to flexibility respond to Soviet ICBM initiatives later in this decade.

It is interesting to me that you would contest my advocacy of continued Minuteman III production on the basis that the replacement of the Minuteman III warhead with the Mark 12A is a better option. After attempting to construct an argument around the merits of the Mark 12A, you sum up the purpose of your letter as not "to argue against the Minuteman III or for the Mark 12A." My point is that, for the purposes of your first "Truth in Defense" bulletin, you do indeed *argue for* the Mark 12A. But confusingly, you conclude your arguments against the Minuteman III and in favor of the Mark 12A by stating, "In fact, I see little purpose in either." I suggest that not only have you selected an issue to debate me on and then promptly disavowed your own arguments, but you have avoided discussing the merits of our *real* differences of opinion: I believe there are valid and compelling reasons for both continued production of the Minuteman III, and forward movement on the Mark 12A. You ". . . see little purpose in either."

I do not mean for this observation to be taken personally, but your method of approaching a selected defense issue reminds me of the method that has been employed in the past on selected defense issues. Some Members of Congress argued against deployment of the Safeguard missile defense system on the grounds that the Site Defense ABM system (which was then in research and development, like the Mark 12A you argue for) would be a more cost-effective option. Later, however, these same individuals opposed development of the Site Defense system. Likewise, these individuals are questioning the utility of the B–1 bomber on the grounds that the stand-off platform with long-range cruise missiles could perform the same mission at less cost. Yet, these individuals offer amendments to halt development and testing of long-range cruise missiles.

It does not make any sense to me for anyone to argue this way. It certainly is a confusing, not to mention deceptive, manner of approaching the very real, very important decisions Members of Congress are called upon to make in the interests of our national security.

In consonance with the intent of your "Truth in Defense" series, I would like to make several additional observations.

You state that we already possess more soft target capability than we could ever use. This may or may not be true. Nevertheless, the reasons why we possess so much soft target capability are alarming. Evidence disclosed in recent hearings conducted by our colleague, Bob Leggett, indicate that the Soviet civil defense preparations may be significantly increasing the hardness of the targets against which our retaliatory weapons are directed. Although our weapons will always have the capacity to knock down buildings and blow off roofs, the industrial machinery within those buildings may be hardened against small, inaccurate weapons. With such hardening, the Soviet Union could restore production much more rapidly than we could, because our industrial machinery is fully exposed to the effects of Soviet weapons. Should Congress implement my suggestion to maintain the Minuteman III production, we would not add to the problem of too much soft target capability!

And although neither of us discuss civil defense in our "Dear Colleague" letters, I would like to make one point for the perspective it adds to the issue of soft target capability: Following ratification of the SALT I accord, the Soviets established a new deputy ministry in the Defense Ministry, the Deputy Ministry for Civil Defense. The Deputy Minister for Civil Defense (Col.-General Altunin) is on a par with other elements of the Defense Ministry (e.g. Strategic Rocket Troops, Air Defense Forces, etc.). I would not say that the Soviets want nuclear war any more than we do, but I would say, and the evidence supports me, that they are far more prepared for it than we are—and their preparations cast increasing doubt upon the adequacy of our deterrence.

You state that "Whether the Soviets have one new ICBM design or five, or fifty, is of no particular significance. What counts is their total capability in relation to our capability." I do not agree that what each side has is of "no particular significance"

but I do believe that what each side has is not as important as what each side can do with what it has. All those new Soviet ICBM lines are significant for the technology advances they represent. This is a point I made earlier. Soviet technological breakthroughs on MIRV and on-board computers combine with large boosters to give the Soviets the potential of overwhelming strategic advantage. The U.S. should not match Soviet ICBM lines one-on-one, but it is imperative that we have a variety of options sufficient to maintain our strategic objectives.

The study commissioned by Senator Culver from the Library of Congress makes the point quite cogently that we ought to concentrate our defense debate on what "this country can do despite Soviet opposition, not on what each side has." As you know, this study concludes that "the present balance between the U.S. and Soviet strategic offensive forces would be degraded dramatically (against the U.S.) by pre and post launch attrition at the onset of a general nuclear war." This same study underscores the fact that in quantitative terms the military balance has shifted substantially in favor of the Soviet Union and that U.S. qualitative superiority is slowly slipping away.

What ever the stated purposes of your bulletin, you do not very directly address the points I make in my "Dear Colleague" letter. In that letter, I advocate keeping the Minuteman III production line open in the absence of a viable replacement, in realistic recognition of Soviet ICBM advances, and in the absence of a SALT II accord.

The proposed improvements in our Minuteman II were not undertaken because of the planned replacement with the more survivable Minuteman III. In addition, the Minuteman II has far passed the expected life of its propellents. We do not know how much longer they will last without replacement. My proposal to keep the Minuteman III line will solve both of these problems.

Last year, the United States exercised unilateral restraint by defering the Minuteman III deployment beyond the 550 level. The Soviets continued MIRV deployment, and they stepped up international adventurism. Keeping the Minuteman III production line open offers the U.S. a timely, visible, forceful strategic capability to persuade the Soviets to exercise restraint.

Due to the fact that not all of our sea-launched ballistic missiles and bombers are on alert, we could expect to lose a substantial number of them in a Soviet attack. Consequently, the importance of our ICBM force should not be understated. The ICBM force is the most survivable leg of our strategic TRIAD today, and the Minuteman III is the best element of our ICBM force. You have gone on record as opposing the B-1 bomber. You have stated in your "Dear Colleague" letter you "see little purpose" in the Minuteman III. If you have, in fact written off two-thirds of our TRIAD, it would further the cause of a true "Truth in Defense" debate, for you to first establish your perceptions of "defense."

As a replacement for the Minuteman II, the Minuteman III can be retargeted rapidly and remotely. Hardening against dust and debris means it can be launched with increased confidence following a nuclear attack. Through the accuracy improvement program and the Mark 12A program, the Minuteman III offers the potential for cost effective, incremental increases in our defense capability, thereby allowing us to proceed with the MX without sacrificing flexibility to respond to any Soviet initiatives later in this decade.

I am no more fond of talking about a Soviet "threat" than you are. But the threat is real. Why has the Soviet Union shifted its military R&D efforts to such brave new fields as high energy lasers, wing-in-ground-effect vehicles and high-pressure technology? Why are Soviet dissidents like Andrei D. Sakharov and Alexander Solzhenitsyn complaining of the militarization of Soviet life? In the era of SALT negotiations, why has the Soviet Union pursued such an extensive civil defense program? Not since the war preparations of Nazi Germany in the 1930s has a major nation at peace devoted such a high percentage of its resources to the military as has the Soviet Union. My question is why? Is there any evidence that our unilateral action to close down the only line in the free world producing strategic missiles has been matched by Soviet ICBM restraint?

I hope this puts my advocacy of the Minuteman III production in perspective.

In closing, I underscore the fact that it would further the cause of a true "Truth in Defense" debate for you to establish where you stand, and why, on the defense issues you select to debate.

Sincerely,

JACK KEMP,
Member of Congress.

P.S.—In the Congressional Record of March 23, 1976, you state on page 7694 that I describe the SS-16 as a MIRV. No where in the correspondence to which you allude do I mention the SS-16, or describe it. In accordance with your statements on correcting inaccuracies in your bulletins, I would appreciate a correction.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 19, 1976.

DEAR COLLEAGUE: As you know, the defense budget for fiscal year 1977 does not provide for further production of the Minuteman III, our *only* land-based intercontinental ballistic missile.

At this time we have no Salt II accord. The Soviet Union is pressing ahead with deployment of four new, ICBM systems and has a fifth new system underway. Our proposed replacement for the Minuteman III (the MX) is not even a fixed concept at this point, and would not near the deployment stage until 1985.

In light of these facts, I believe it is important to maintain production of the Minuteman III and I have requested this in the attached letter to the President. If you believe as I do that it is unwise and costly to terminate our Minuteman III production at this time, I hope you will join me in signing the attached letter.

If you have any questions on this issue, Please contact me. If you would like to co-sign, please phone Ann at extension 55265.

Sincerely,

JACK KEMP.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 10, 1976.

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

DEAR MR. PRESIDENT: We are disturbed over the decision of the Administration to halt production of the Minuteman III intercontinental ballistic missile even prior to the completion of Salt II talks.

As you know, the Minuteman III is the *only* land-based ballistic missile now *being produced* by the United States. The proposed replacement for the Minuteman III cannot reasonably be expected to be deployed until well into the next decade, and at this stage is not even a fixed concept.

While a halt in Minuteman III production would leave us without *any* land-based ICBM in production, the Soviet Union is pressing forward with deployment of four new ICBM systems, and has a fifth, even more advanced, line in the offing. Secretary of Defense Rumsfeld has already informed this Congress in the new defense posture statement that a continuation of these current Soviet strategic programs could threaten the survivability of the Minuteman within a decade.

A Salt II accord might put the Administration's decision to halt the Minuteman III in perspective; however, we have not seen this accord and we cannot condone foreclosing our options regarding the accord by having no Minuteman III in production.

The material costs of shutting down the production line would be very high and it would be very difficult to reassemble the expert subcontractors and vendors necessary to restart the line.

In the absence of a Salt II accord, and in the absence of a viable replacement for the Minuteman III at this time, and in realistic recognition of Soviet advances in the field of ICBM deployment, we request that you reverse the decision on the Minuteman III and provide for production of this system to continue.

Sincerely,

JACK KEMP,
Member of Congress.

TRUTH IN DEFENSE, PART ONE

DEAR COLLEAGUE:

STATEMENT

On February 19, 1976, our colleague Jack Kemp circulated a Dear Colleague letter which included the following:

"As you know, the defense budget for fiscal year 1977 does not provide for further production of the Minuteman III, our *only* land-based intercontinental ballistic missile.

"At this time we have no Salt II accord. The Soviet Union is pressing ahead with deployment of four new, ICBM systems and has a fifth new system underway. Our proposed replacement for the Minuteman III (the MX) is not even a fixed concept at this point, and would not near the deployment stage until 1985."

Congressman Kemp then concluded that the Department of Defense should reverse its decision to discontinue production of the Minuteman III ICBM.

RESPONSE

Fact #1. The Minuteman III is not our only land-based intercontinental ballistic missile. In addition to our 550 Minuteman IIIs, we also have 450 *Minuteman IIs* and 54 Titan IIs.

Fact #2. It is true that the new MX ICBM will not be ready until the 1980s. But it is not necessary to replace an entire missile to increase capability. Within three years—that is, within just a few months of the time the additional Minuteman III missiles advocated by Congressman Kemp will be available—we will be able to replace the Minuteman III warhead, called the Mark 12, with an improved version called the Mark 12A. This new warhead, accompanied by accuracy improvements which will be available to us at that time, will have approximately seven times the hard target kill power of its predecessor; that is, it will be equivalent to replacing the Minuteman III with a new missile seven times as heavy. In contrast, replacing Minuteman IIs with present Minuteman IIIs as Congressman Kemp recommends would increase per-missile hard taget capability only by about 17%. (It would increase soft target capability about 50%, but we already have more soft target capability than we could ever use.)

Fact #3. There is no military validity in the proposition that we should build a new ICBM just because the Soviets are doing so. With one exception, U.S. and Soviet ICBMs would not engage each other; thus, it is meaningless to compare them. The exception is an attack by Soviet ICBMs against our ICBM *silos*. In this case, the rational response is to improve the survivability of the silos, perhaps by upgrading the silo or going to a mobile multiple-shelter system. (Even those steps are effective only up to a point. The

only enduring way to protect our ICBMs is to another subject for another letter.) To put a limit Soviet accuracy by treaty—but that is new missile, whether it be Minuteman III or any other missile, into the old silo would be an ineffective response to a new Soviet ICBM, since the new missile would be as vulnerable as the old one.

Fact #4. To reiterate, there is no military validity in comparing our ICBM capability with that of the Soviets. But I know from experience that no matter how many times I say this, people will still ask, "Who's ahead?" Therefore, with still another warning that these comparisons are mere academic exercises, I offer the results of my calculations, which are based on unclassified sources:

Minuteman III with Mark 12A and associated accuracy improvements will have:

8 times the hard target capability of the Soviet SS-16 MIRV

6 times the hard target capability of the Soviet SS-17 MIRV

2 times the hard target capability of the Soviet SS-18 MIRV

4 times the hard target capability of the Soviets SS-19 MIRV.

Since I have been unable to obtain any unclassified information on the "fifth new system" mentioned by my colleague, I am unable to discuss it further in this public letter.

Fact #5. Whether the Soviets have one new ICBM design or five, or fifty, is of no particular significance. What counts is their total capability in relation to our ability to counter them. It makes little difference whether their capability is deployed in large numbers of similar missiles or in smaller groups of diverse missiles. In general, our superior technology allows us to have higher confidence in our designs and thus to produce fewer of them than the Soviets.

It is not my purpose here to argue against Minuteman III or for Mark 12A. (In fact, I see little purpose in either. Some of the future letters in this series will point out factual errors made in support of conclusions with which I agree.) Rather, my purpose is to help all of us to develop the best possible factual and conceptual base upon which to make our defense decisions.

An advance copy of this letter has been delivered to Jack Kemp. I will be discussing this matter, hopefully with him, in a special order I have taken for Monday, March 16. I hope you will be able to attend. In the meantime, if you have any questions or would like further information, please contact me on x53335 or Bob Sherman of my staff on x54872.

Sincerely,

THOMAS J. DOWNEY,
Member of Congress.

ANOTHER LEFTIST FRONT TO PROMOTE OUR ENEMY IS ESTABLISHED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, one of the reasons the American left and the Communists fronts in this country hated the old Un-American Activities Committee and its successor the House Internal Security Committee was the fact that those committees kept comprehensive records and painstakingly fitted together pieces which illustrated the web of subversion and leftist activities in this Nation. Time and time again, these committees helped inform the American public about the pro-Soviet Union and radical movement in the United States. Card files were assiduously compiled and cross-referenced.

I heard many of my colleagues on the Judiciary Committee earlier this week indicate that they were voting to, in effect, destroy these files and make them inaccessible to the public because they had no value. As I said in rebuttal at that time, hundreds of examples could be given to illustrate their meaningful value—meaningful, that is, if you have one iota of interest in the activities of the radical left in this country. For example, when the SLA first surfaced and made its radical demands, only one group in the country was in a position to know about the SLA, its members, and their background. That was the Internal Security Committee. Examples could go on and on.

I would like to point out a recent letter which Members received regarding a leftist group which is cranking up public sentiment in favor of not only trade with the Soviet Union but, far more significant, giving the Soviet Union favored trading status and making available loans for export of strategic products to that country.

A study of the card files of the old Internal Security Committee would tie this new group to the same old gaggle of one-worlders, professors, seminarians, professional leftists, out-of-step union leaders, leftist think tanks, and big business patsies. They are all there. You only need to fit together the pieces. I use the phrase out-of-step union leaders because nothing is more obvious in this country than the answering patriotism and anti-Communist beliefs of rank and file labor. I only wish most businessmen were as solid on that issue as their labor counterparts. Let us examine this new front.

First, of course, they use the same old tired names of liberal and socialistic organizations of the past. John Kenneth Galbraith, Jerome Weisner, former Senator Eugene McCarthy, Phillip C. Jessup, Edwin O. Reichauer, Harrison Salisbury, former Governor Terry Sanford—the list could go on and on. Kirk Douglas the actor, Attorney Charles Rhyne, Father Hesburgh, and UAW President Leonard Woodcock.

Second, the key groups are there, too. The same liberal-leftist organizations which have rallied to dozens of past causes, usually attacking the American position and looking with favor on Communistic and radical movements throughout the world: the Center for the Study of Democratic Institutions, the Fund for Peace, and the Council for a Liveable World. That pretty well tells you what kind of a group they have assembled.

Third, they attract the usual bevy of big businessmen who put profits over their country's national interests. George Prill, president of Lockheed International, Thomas Watson of IBM, and others. I used to think they were unthinking but when some big businessmen like Donald M. Kendall, chairman of Pepisco, Inc., turn up on many of these groups ranging from Common Cause to this latest travesty you begin to realize that it is more than an accident.

Fourth, there is almost incestuous conduct in the way these leftist organizations operate out of the same quarters and with the same personnel. At the bottom of the covering letter is listed the address of the newly formed American Committee on U.S.-Soviet Relations. It is 122 Maryland Avenue, NE., Washington, D.C., 20002. I doubt that it is by accident that this building, a mere block from the Capitol Grounds, is owned by Stewart Mott, bankroller of the American left and contributor to various one-world and peacenik causes. The same Mott donated over $400,000 to GEORGE MCGOVERN'S 1972 campaign and contributed over $300,000 to the Fund for Peace. Oh yes, Nicholas Nyary of the Fund for Peace is on the list of members of the new organization. One of the top officials is Dr. Carl Marcy, who is associated with the Council for a Liveable World. Is it just coincidence that this same Carl Marcy grinds out a leftist newsletter which continually downgrades strong American policies and advocates giving in to Communist and radical third world goals? As you can see on the committee list which I have included in these remarks, in his credits—if you want to call them that—he lists among other things that he is editor of Foreign Affairs Newsletter. Is it not coincidental that this same leftist Foreign Affairs Newsletter operates out of the basement of 122 Maryland Avenue?

On and on we could go. For the past 15 years, while studying the leftist movement, I could cite scores of examples of interlocking organizations, headquarters and individuals in these leftist causes but the end result is always the same: set up a front to advance the causes of our enemies and endeavor to sell it to the American people as progress.

Mr. Speaker, I am including at this point the covering letter from the American Committee on U.S.-Soviet Relations, the memorandum from Benton International, Inc., which indicates what these sell-out artists want—taxpayer subsidization of their, repeat, their business sales to our enemy and a roster of the members of the committee.

The letter follows:

THE AMERICAN COMMITTEE ON
U.S.-SOVIET RELATIONS,
Washington, D.C., March 1, 1976.

DEAR CONGRESSMAN: The American Committee on U.S.-Soviet Relations has been formed to help promote better relations between the United States and the Soviet Union. In line with that purpose we believe development of American-Soviet trade is in the interest of the United States because it will benefit American business and agriculture, provide jobs for Americans, and obtain access to raw materials in short supply in the United States. Our current major focus is to help work out amendments to the 1974 Trade Act which will remove present restrictions on this trade. Removal of such restrictions is consistent with the position taken by the President and will, we believe, be in our long range national interest.

We call to your attention the enclosed nationally syndicated Harris Survey as published in the Chicago Tribune of January 19, 1976. (Copyright 1976 by the Chicago Tribune. All rights reserved.) The Harris Survey has found that among a cross section of 1394 adults:

62% favor détente between the U.S. and

Soviet Russia and China—only 15% oppose it.

55% favor giving the Soviets the same trade treatment accorded other countries—only 23% oppose this.

52% favor expanding U.S./Soviet trade—only 25% oppose this.

This lends further support for the Administration's position that a change is needed in the Trade Act to remove the present restrictions on U.S.-Soviet trade.

In addition to the Harris Survey, there is also enclosed the Statement of Principles to which our members subscribe, a list of our current membership, which I believe you will find impressive in its scope, and a Memorandum on U.S.-Soviet Trade dated February 6, 1976, prepared by Fenton International, Inc.

While Secretary Kissinger has brought up Angola as a reason to postpone amending the Trade Act, as noted in the Fenton Memorandum, it is of some interest to note that there have been recent signs that the Soviet authorities may be taking steps to modify some of the emigration policies and practices in the directions desired by Congress. The numbers of emigrants increased significantly in November and December. Procedures are reported to have been simplified, fees reduced and some well known dissenters appear to be being allowed to leave.

From time to time we will be writing to you with respect to modification of trade restrictions and other means to promote better relations between the U.S. and the Soviet Union.

The American Committee is registered under terms of the Federal Regulation of Lobbying Act.

Sincerely yours,

FRED WARNER NEAL,
Chairman, Executive Committee.

FENTON INTERNATIONAL, INC.,
Aspen, Colo., February 6, 1976.

MEMORANDUM

THE PROBLEM

Title IV–Section 402—of the Trade Act of 1974 (Public Law 93-618) approved January 3, 1975, restricts the President's ability to grant non-discriminatory tariff treatment (MFN) for U.S. imports from the Soviet Union, and to authorize Export-Import Bank or Commodity Credit Corporation or other government-backed credits or guarantees for U.S. exports to the Soviet Union, and links these subjects to the Soviet Union's emigration policies and practices.

As a result of this law, the Soviet government declined to implement the 1972 Trade Agreement with the U.S.—which specifically provided for non-discriminatory reciprocal tariff treatment—detente was set back, and U.S. industry and agriculture have lost substantial business and many potential jobs to the Europeans and Japanese.

For example, while no new Ex-Im Bank Credits have been granted since 1974, the European, Japanese and Canadian governments *currently* have available over $10 billion of government-backed credits for their exporters to the Soviet Union.

No one knows how much potential business and jobs have been lost since January 1975. The Soviets say that more than $1.6 billion of orders have been switched to Europe and Japan because of the availability of credits there. This amount could be responsible for about 100,000 jobs. As time goes on without a remedy the toll in lost jobs and business will increase. Many contracts are now being neogtiated as part of the 1976–1980 plan and therefore represent business opportunities which if lost will not recur until 1981.

During 1975 U.S. exports to the Soviet Union increased substantially due primarily to shipments of agricultural products. The total was at least $1.8 billion of which agricultural was about $1.1 billion. U.S. imports from the Soviet Union, however, totalled about $250 million, leaving the U.S. with a surplus of about $1.6 billion.

Clearly the Soviets cannot continue to import from the U.S. on this scale unless they are permitted to push exports to the U.S.—and for this MFN treatment is essential. U.S. jobs now dependent on exports to the Soviets may depend on granting such treatment soon.

THE ADMINISTRATION'S POSITION

The President has many times publicly stated his position that "remedial legislation on credits and MFN treatment for the Soviet Union and other communist countries is urgently needed. The Trade Act of 1974, as it relates to this subject, has proved to be both politically and economically harmful to our national interest and has not achieved the objective which its authors intended." (Quotation from a letter to Congressional leaders dated June 27, 1975)

Secretaries Simon and Butz has stated the same position as recently as January 29 and 30, 1976. Secretary Kissinger has until recently taken the same position, but on January 30 he stated that "in view of the situation in Angola, this is not an appropriate time to go before the Congress" to try to get the restrictions modified.

STATEMENT OF PRINCIPLES ADOPTED BY THE AMERICAN COMMITTEE ON U.S.-SOVIET RELATIONS

The Committee will strongly support steps to improve trade relations with the Soviet Union including the granting of most favored nation status and the provision of supporting financial arrangements. We believe that close trade—as close cultural and political relations—are indispensable for progress toward stable, peaceful relations and prospects for arms control. We should accord our support to liberal and Jewish writers and scholars and will press for permission for their emigration where this is sought. We do not believe that their position is improved in any effective way by making it a part of our bargaining over trade.

The Committee has welcomed bilateral initiatives toward reaching meaningful agreements on nuclear arms limitations and controls. It is aware, however, that the progress achieved had little effect on the continuing arms race which threatens ever more the security of both countries.

The Committee believes that maximum efforts must be urgently made to reach agreement which would slow down this race and thus make progress toward greater security. The arms race inevitably creates and enhances mutual tension which makes the world ever more dangerous. The agreements reached thus far could be interpreted as a license to continue the race.

Preoccupation in the United States Government with the technicalities of military technology and "sufficiency" should yield to active concern with the substance of the arms race.

THE AMERICAN COMMITTEE ON U.S.-SOVIET RELATIONS: LIST OF MEMBERS, MARCH 1976

Mr. Harry Ashmore, Center for the Study of Democratic Institutions, P.O. Box 4068, Santa Barbara, Calif. 93103.

Mr. Charles Benton, Pres., Film, Inc., 1144 Wilmette Avenue, Wilmette, Illinois 60091.

Mr. Meyer Berger, M. Berger Co., South 6th and Bingham Streets, Pittsburgh, Pa. 15203.

Dr. Harold J. Berman, Story Professor of Law, Harvard Law School, Cambridge, Mass. 02138.

Mr. William Bernbach, Doyle, Dane, Bernbach, Inc., 20 West 43rd Street, New York, N.Y. 10036.

Mr. George B. Bookman, Vice President, New York Botanical Gardens, The Bronx, New York, N.Y.

Mr. Robert J. Broadwater, Vice President, Coca-Cola Comp., P.O. Drawer 1734, Atlanta, Ga. 30310.

Dr. Howard Brooks, Provost, the Claremont University Center, Claremont, Calif. 91711.

Prof. Harrison Brown, President, International Council of Scientific Unions, California Institute of Technology, Pasadena, Calif. 91109.

Mr. Lawrence T. Caldwell, 2453 N. Hollister, Altadena, Calif. 91001.

Mr. James R. Carter, Chairman of the Board, Nashua Corporation, Nashua, New Hampshire.

Prof. Walter C. Clemens, Jr., Dept. of Political Science, Boston University, 232 Bay State Road, Boston, Mass. 02215.

Mr. Richard Colburn, Rolled Alloys, Inc., Suite 520, 3435 Wilshire Blvd., Los Angeles, Calif. 90010.

Mr. Randolph Compton, Kidder Peabody, 10 Hanover Square, New York, N.Y. 10005.

Dr. William Davidson, Director, Institute for Psychiatry and Foreign Affairs, 2600 Virginia Ave. N.W., Washington, D.C. 20037.

Mr. Kirk Douglas, 707 North Canon Drive, Beverly Hills, Calif. 90210.

Dr. Helen G. Edmonds, National President, The Links, Inc., P.O. Box 3847, Durham, North Carolina 22702.

Mr. Richard C. Fenton, Fenton International, Inc., 1707 H Street, N.W., Suite 901, Washington, D.C. 20006.

Mr. Joseph Filner, Noblemet, 919 Third Avenue. New York, N.Y. 10022.

Dr. Jerome D. Frank, Professor of Psychiatry, Johns Hopkins University, Baltimore, Md. 21205.

Edward L. Freers, Formerly Minister-Counselor, U.S. Embassy, Moscow, and Political Advisor to Commander-in-chief of U.S. Strategic Air Command, 43611 Old Harbor Drive, Bermuda Dunes, Calif. 92201.

Professor John Kenneth Galbraith, Former Ambassador, Harvard University, Cambridge, Mass. 02138.

Professor Richard Gardner, School of Law, Columbia University, New York, N.Y. 10027.

Philip S. Gillette, Professor of Political Science, Rutgers University, New Brunswick, N.J. 07103.

Professor Marshall I. Goldman, Chairman, Economics Department, Wellesley College, Wellesley, Mass. 02181.

Mr. Rufus K. Griscom, Atty., 1136 Fifth Avenue, New York, N.Y. 10028.

Julian N. Hartt, Dept. of Religious Studies, Cocke Hall, U. of Virginia, Charlottesville, Va. 22903.

The Rev. Theodore M. Hesburgh, C.S.C., President, University of Notre Dame, Notre Dame, Indiana 46556.

Mr. John W. Hill, Hill and Knowlton, 633 Third Avenue, New York, N.Y. 10017.

Mr. Robert Hutchins, Center for the Study of Democratic Institutions, Box 4068, Santa Barbara, Calif. 93103.

Philip C. Jessup, Off Windrow Road, Norfolk, Conn. 06508.

Mr. Donald M. Kendall, Chairman, Pepsico, Inc., Purchase, New York, 10577.

Hon. George Kennan, Former Ambassador to the Soviet Union, Woodrow Wilson International Center for Scholars, Smithsonian Institution Bldg., Washington, D.C. 20560.

Dr. George B. Kistiakowsky, Department of Chemistry, Harvard University, 12 Oxford, Cambridge, Mass. 02138.

Hon. Edward Korry, Former Ambassador, 351 Elm Road, Briarcliff Manor, N.Y. 10510.

Prof. Wassily Leontief, Dept. of Economics, New York Univ., Tisch Hall, Washington Square, New York, N.Y. 10003.

Mark Lewis, 3508 Lowell St. N.W., Washington, D.C. 20016.

Mr. Carl Marcy, Former Chief of Staff of the Senate Foreign Relations Committee, Editor, Foreign Affairs Newsletter, 120 Maryland Ave., N.E. 20002.

Hon. Eugene McCarthy, 3053 Q Street N.W., Washington, D.C. 20007.

Hon. Sheldon T. Mills, former Ambassador, 723 Chiquita Road, Santa Barbara, Calif. 93103.

Prof. Patrick Morgan, Dept. of Political Science, Washington State University, Pullman, Washington 99163.

Rev. Dr. Robert V. Moss, Pres., United Church of Christ, 297 Park Avenue South, New York, N.Y. 10010.

Mr. Michael L. Nacht, Program for Science and International Affairs, 9 Divinity Avenue, Cambridge, Mass. 02138.

Prof. Fred Warner Neal, Chairman, International Relations Faculty, Claremont Graduate School, Claremont, Calif. 91711.

Mr. Nicholas Nyary, The Fund for Peace, 1855 Broadway, New York, N.Y. 10023.

Mr. R. Spencer Oliver, Executive Director, American Council of Young Political Leaders, 1616 H Street, N.W., Washington, D.C. 20006.

Mr. Ara Oztemel, President and Chairman, Satra Corporation, 475 Park Avenue South, New York, N.Y. 10016.

Mr. Gifford Phillips, 2501 La Mesa, Santa Monica, Calif.

Mr. Gerald Piel, Publisher, Scientific American, 415 Madison Avenue, New York, N.Y. 10017.

Mr. George Prill, President, Lockheed International, P.O. Box 511, Burbank, Calif. 91501.

Mr. Paul O. Proehl, International Trade Consultant, 1423 Georgina Ave., Santa Monica, Calif. 90402.

Prof. Edwin O. Reischauer, former Ambassador, Harvard University, Cambridge, Mass. 02138.

Mr. Charles S. Rhyne, Atty., Rhyne and Rhyne, 400 Hill Building, Washington, D.C. 20006.

Dr. Howard P. Rome, Mayo Clinic, Pres., World Association of Psychiatrists, Rochester, N.Y. 55901.

Mr. Robert V. Roosa, Brown Bros., Harriman Co., 59 Wall Street, New York, N.Y. 10005.

Mr. Peter A. Rubstein, Rubstein Associates, 666 Fifth Avenue, New York, N.Y. 10019.

Mr. Harrison Salisbury, New York Times, 229 West 43rd Street, New York, N.Y. 10019.

Mr. Leonard M. Salter, Wasserman and Salter, Counsellors at Law, 31 Milk St., Boston, Mass. 02139.

Hon. Terry Sanford, President, Duke University, Durham, North Carolina 27705.

Mr. Sidney H. Scheuer, Scheuer and Company, 270 Madison Avenue, New York, N.Y. 10016.

Mr. Marvin Schachter, President, Volume Merchandise, Inc., 4811 S. Alameda St., Los Angeles, Calif. 90058.

Mr. Robert D. Schmidt, Executive Vice President, Control Data Corporation, Box 1, Minneapolis, Minn. 55440.

Mr. L. W. Scott, Jr., CRC Crose International, Inc., P.O. Box 3227. Houston, Texas 77001.

Mr. Richard Shipley, President, American Cascin Co., Elbow Lane, Burlington, N.J. 08016.

Dr. Kenneth W. Thompson, Director, International Council for Educational Development, 680 Fifth Avenue, New York, N.Y. 10019.

Hon. Raymond L. Thurston, Former Ambassador, 5400 Ocean Blvd., 3-1, Sarasota, Florida 33581.

Mrs. Marietta Tree, 123 East 79th Street, New York, N.Y. 10024.

Hon. James J. Wadsworth, Former Ambassador, 3909 Avon Road, Genesco, N.Y. 14454.

Mr. Thomas Watson, Jr., IBM, Armonk, New York 10504.

Mr. William Watts, President, Potomac Associates, 1707 L Street N.W., Washington, D.C. 20036.

Dr. Jerome B. Wiesner, President, Massachusetts Institute of Technology, Cambridge, Mass. 02139.

Mr. Eugene W. Wilkin, President, Wilkin Associates, 5439 Penfield Avenue, Woodland Hills, Calif. 91364.

Mr. Harold Willens, Chairman, Factory Equipment Corp., 1122 Maple Ave., Los Angeles, Calif. 90015.

Mr. Leonard Woodcock, President, UAW, International Union, United Automobile Aerospace and Agricultural Implement Workers of America, 8000 East Jefferson Ave., Detroit, Mich, 48214.

Dr. Herbert F. York, Department of Physics, University of California, San Diego, La Jolla, Calif. 92307.

Mr. Paul Ziffren, Attorney, 10889 Wilshire Blvd., Suite 1260, Los Angeles, Calif. 90024.

As I have pointed out many times, these groups endeavor to promote a basic fraud on the American people. That fraud is the fiction that by selling computers, planning equipment, milling equipment, tooling equipment, geophysical equipment, instruments of all kinds and other vital products which the United States has but the Soviet Union does not, they are not harming us militarily. The chairman of the board of Control Data Corp., William C. Norris, for example indicated that the purpose of selling computers to China is to assist in the exploration and development of oil resources. He goes on to say:

> Surely it is in the best interests of the United States to encourage a major new source of oil supply.

Now is it really? Since when is Red China on our side? He further indicated that the "purpose of our computer that would be sold to the Soviet Union is to process weather data that would be fed into a world-wide weather forecasting network—from which the United States would benefit a great deal." Now really. What guarantee that the Soviet Union will not use these computers for nonpeaceful purposes? Absolutely none but these callous businessmen are not putting their Nation's best interests first. Recall what the Communist philosopher said about capitalists selling the rope to hang themselves.

Time and time again, I have documented that the Soviet military-industrial complex is just like ours. It is made up of components of the private sector every bit as much as ours is. The same equipment which builds compressors, engines, copper tubing, alloy products which can go into refrigerators and consumer goods, just like in the United States, can also go into missiles, tanks, and the war machine.

Greedy business interests seem bent on promoting a big lie and they become willing accomplices of the radical left when it serves their purpose. Hopefully, the American people will wake up to this travesty which unfortunately is tacitly approved by the State Department and this administration. On the basis of its record during the past thirty years, the State Department would not know a Communist threat if it saw one and rarely has our own self-interest at heart.

REUNITE LEV AND AVIVA GENDIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 15 minutes.

Mr. LEHMAN. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of separated families.

Lev and Aviva Gendin have been separated for nearly 4 years. The inhuman emigration policies of the Soviet Union separated them in June 1972, only 3 months after they were married.

Aviva was allowed to leave the Soviet Union on 10 days' notice after being arrested for placing flowers on the graves of Jews murdered by the Nazis in World War II.

Lev has been arrested repeatedly and has spent many months in jail for his efforts to leave the Soviet Union.

Recently, a Miami Herald reporter visited Lev in Moscow and Aviva in Israel. His account appeared on March 29 and I would like to include it in the RECORD:

TRAPPED, SOVIET JEW YEARNS TO JOIN WIFE IN ISRAEL

(By James McCartney)

HOLON, ISRAEL.—They are man and wife—Aviva and Lev Gendin—and they are deeply in love.

But they have not seen each other for three years and nine months. They are Jewish, and Russian emigration policies have kept them apart since June 1972, three months after they were married in Moscow.

Today Lev is still in Moscow; Aviva is here in Holon, Israel, a suburb of Tel Aviv. The Russians have refused to grant him an exit visa to join her.

They are just two of hundreds of family members, many of them Jewish dissidents seeking to go to Israel, who have been split by Soviet policies.

Lev and Aviva—he in Moscow, she in Israel—as well as members of two other families that have been divided at the bureaucratic whim of Soviet officialdom spoke of their ordeals.

Said Aviva, an olive-skinned woman of 24 with deep brown eyes: "I want to be happy with my husband. I want to have children. I want to go to the cinema with him . . .

"I am not shouting, 'Let the Jews out of the Soviet Union,' I am shouting, 'Let my husband out.'"

She spoke in a small apartment here where she lives with her mother and father, waiting and hoping that someday Lev will be permitted to join her.

A few days earlier, in Moscow, Lev 34, told me:

"If you see her, tell her that I am doing everything I can to try to come. Tell her that I love her."

The story of Aviva and Lev Gendin is not unusual for many Russian Jews in Israel today. Almost all know members of split families—husbands and wives, brothers and sisters, parents and children.

Their only crime is that they want to leave, which makes them "dissidents." And the Soviets are punishing them for it to discourage others from applying to leave.

"It's a question of prestige," explained Vitaly Rubin, a specialist in ancient Chinese philosophy who was fired from his job after applying for an exit visa. "The Soviet government says nobody wants to leave because this is the happiest in the world."

The government insists that 98.4 per cent of those who have applied have been granted

exit visas. But the government discourages other applications by its campaign of terror.

Many who seek to leave are shadowed and bugged. They do not know when they may be arrested and sent to Siberia. They are not told why their applications are being refused.

No one knows how many of an estimated 2½ million Jews in the Soviet Union want to leave, but certainly, said Rubin. "thousands" are being retained against their will.

The Soviet actions have contributed to a sharp decline in immigration to Israel from the Soviet Union, long a major source of Israeli population growth.

In 1973, the peak year, more than 33,000 Russian Jews emigrated to Israel. Last year the figure dropped to 8,200. The rate has continued to drop so far in 1976.

Each family has its own story to tell. Here, in summary, are two:

THE GENDINS

Theirs is, perhaps, the more tragic of the stories.

Both became dissidents early in life—Jews who wanted to live as Jews, protesters, by heritage, against the policies of the Soviet state.

She was from Vilnius, in Lithuania, conquered by the Russians in 1940 and absorbed into the Soviet empire after World War II.

Her Jewish parents, Aviva said, were upset at not being able to practice their religion as they wished. As early as 1956 they sought permission to go to Israel, then only seven years old.

She said she felt the ugliness of anti-Semitism early in life and still remembers finding "Jew" listed on her college identification card—"when I knew nothing at all about being a Jew."

She met Lev in Moscow in 1971 "at a demonstration." He offered his apartment in Moscow to her and two other girls who had come to demonstrate, while he stayed with his parents.

"He is the kindest person in the world," she said. They fell in love and six months later became engaged.

She and her family, and he and his family, applied for exit visas to go to Israel. All were told it would be at least five years before they could expect to leave.

Aviva and Lev were married in Moscow in March 1972. Immediately afterward she returned to Vilnius to get papers and documents necessary in her new life.

While she was home she and her parents were arrested while placing flowers on the graves of Jews who had been slain by the Nazis in World War II.

"I was held for six hours," she said, "and interrogated by the KGB. Two days later my parents and I were told that we could have exit visas to leave in 10 days."

It was a shock, and she remembers Lev's shock when she told him about it by telephone. She returned to Moscow and they debated what to do.

"Lev told me, you must decide. He was crying. I remember the tears in his eyes. But we felt that if I got out, sooner or later he would get out. We had 10 days to make a life's decision."

Now she is living comfortably, teaching English in a school, studying at Bar Ilan University and caring for her aging parents.

For Lev it is not so easy. In the Soviet Union he is a "nonperson." He does not exist as far as the state is concerned.

Aviva said her husband has been arrested repeatedly and has spent about 150 days in jail.

At one point he was beaten and later found by friends in the street, she said. On another occasion he had to hide for months to avoid prison but was "pardoned" after a particularly strong protest demonstration in New York.

He writes to her once a week but the last letter she received in Israel was dated last October.

What will happen? She does not know, but she believes strongly that protests in the West are their only shield against stronger Soviet action and their only hope of forcing his eventual release.

"Our lives are in the hands of the West," she said. "If there will be enough protests, sooner or later he will be free and I will see him again and we can begin to live our lives."

FIRST QUARTER 1976 BEST IN DECADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, yesterday's Oil Daily newspaper carried an article that confirmed what many of us suspected all along: that the termination of the depletion allowance would not discourage new drilling for oil and gas. According to the Oil Daily, more oil and gas wells were completed in the first quarter of 1976 than had been completed in any first quarter for more than 10 years. In addition, the 9,975 wells completed in this time represent an increase of 1,388 over the same period last year, or a 16-percent increase.

The article tries to discount the fact that the end of the oil depletion allowance has not discouraged new drilling by claiming that the Chase Manhattan group of 29 larger companies only operated 16.8 percent of all wells completed in the first quarter of this year compared to 19.5 percent a year ago. However, simple arithmetic shows that these companies actually completed almost exactly the same number of wells in both quarters. In the first quarter of 1975, these companies completed 1,674 wells and, in the first quarter of 1976, they completed 1,675 wells. This hardly represents a decline.

Mr. Speaker, despite efforts to manipulate the figures, even a cursory examination of these numbers supports the fact that there is still a great deal of incentive to search for oil. I hope that these figures will be helpful the next time the oil industry sends its legions trooping up to Capitol Hill seeking additional tax breaks and other favors.

The article follows:

INFORMATION FIRM REPORTS: 1976 FIRST QUARTER BEST IN DECADE

DENVER.—More wells drilled for oil and gas were completed in the United States through March of this year than in any first quarter for more than 10 years.

Petroleum Information Corp., here, said that 9,975 completions were reported in the quarter just ended. This is up from 8,587, or a gain of 16%, from the first quarter of 1975. Of the 9,975 completions, 4,431 wells produced oil, 2,086 were gas wells. Oil wells showed a gain of more than 17% from the first quarter of 1975 and gas wells increased by 25%.

The firm attributed the strong showing in the first three months of this year to the impetus built through a strong final quarter of 1975. PI pointed out that the national active rotary rig count has dropped below levels of a year ago and noted that if this situation continues the first quarter gains cannot be expected to hold up.

Currently, activity appears to be more heavily concentrated in areas of rapid drilling, which partially offsets the decline in total rigs active as far as the number of wells completed is concerned.

Sizeable increases in the number of wells completed, compared to the first quarter of last year, occurred in Oklahoma, Texas Louisiana, Kansas, California and Ohio.

As in 1975, current drilling emphasized field development and exploration relatively close to existing fields. New field wildcats, remote from existing production, were actually down slightly from first-quarter 1975. However, PI pointed out that the percentage of such new field wildcats which were completed as discoveries was up from last year's first quarter. This year, 15.8% of new field wildcats found oil or gas in some quantity compared to 14.5% in the first quarter of last year.

Ten states had 85% of first quarter drilling. They are Texas, 3,452 wells; Oklahoma, 1,054; Kansas, 913; Louisiana, 874; California, 670; Ohio, 436; Wyoming, 281; Colorado, 280; New Mexico, 255 and West Virginia, 243.

The percentage of wells completed by larger operators declined. The Chase Manhattan Group of 29 larger companies operated 16.8% of all wells completed in the first quarter of this year compared to 19.5% a year ago.

Petroleum Information noted that this trend is in keeping with industry predictions since 1975 changes in tax laws materially reduced cash flow available, particularly to the larger companies.

Petroleum Information, a subsidiary of A. C. Nielsen Co., Chicago, provides reporting services, maps, logs and technical exploration and engineering consulting services to the petroleum and related industries.

RESTRUCTURING AND UPGRADING THE FEDERAL FIGHT AGAINST CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 60 minutes.

Ms. HOLTZMAN. Mr. Speaker, I am introducing today legislation which will make significant and extensive improvements in the program of Federal aid for local crime-fighting through the Law Enforcement Assistance Administration.

I have pointed out on several occasions the failure of LEAA to have a substantial impact on reducing or preventing crime. Despite the expenditure of more than $4 billion over the past 7 years on Federal aid for State and local law enforcement, the crime rate continues to skyrocket. The latest FBI statistics, for example, show that crime increased by 9 percent nationwide in 1975, bringing the total increase in crime since LEAA began to more than 40 percent. And of course, these statistics do not show the fear, the suffering, the death, the ugly fact that many Americans do not feel safe in the streets of their cities or even in their homes.

This situation is intolerable. Although law enforcement is primarily a local responsibility, I believe the Federal Government has an important role to play. Federal aid can help financially strapped States and localities supplement their own law enforcement efforts. It can subsidize experimental approaches and help local governments find answers to particularly serious problems. The Federal Government can develop and make avail-

able technical expertise, and can keep States informed about progress in law enforcement. The Federal role, then, is one of assisting State and local governments to meet their own crime-fighting responsibilities.

LEAA has not provided adequate assistance and supplementation to local law enforcement efforts. I believe it is our responsibility, in the Congress, to correct this failure. Certainly we can no longer tolerate the waste of billions of Federal dollars on the current LEAA programs while the rising crime rate threatens the security and safety of millions of Americans.

The legislation which I am introducing today will forge the LEAA into a truly effective weapon in fighting crime. It will do so, first, by focusing Federal funds on the most severe problems in law enforcement, and second, by insuring that Federal funds are spent properly on programs that work.

1. FOCUSING LEAA EFFORTS

LEAA funds, although they amount to nearly $90 million annually, constitute only about 5 percent of total nationwide expenditures on law enforcement and criminal justice. The Safe Streets Act, under which LEAA now operates, encourages the diffusion of Federal expenditures across the entire range of law enforcement activities. As a result, a little money is spent on a great many problems, with little impact.

In order for LEAA funds to have a substantial impact, they must be concentrated on the most serious problems in law enforcement. My bill singles out three areas for concentrated effort: speeding up the processing of criminal cases, combating juvenile crime, and strengthening correctional institutions and programs.

1. SPEEDING CRIMINAL TRIALS

The bill gives top priority to speeding up criminal trials, because trial delay is at the heart of the breakdown of our criminal justice system. LEAA studies in three cities showed that it takes an average of 7 to 8 months to bring a criminal case to trial. The trial itself can consume several months more. It is, thus, not unusual for criminal cases—involving the most serious offenses—to drag on for 1 or 2 years. And recent testimony before House and Senate subcommittees has shown that the situation is getting worse.

The price for delayed trials and overcrowded courts is great. Prosecutors resort to plea bargaining in order to reduce their caseloads, which means that some dangerous criminals get reduced sentences or probation. Defendants out on recognizance or bail may commit additional crimes. Innocent defendants who cannot raise bail are kept in jail, at public expense, while their families suffer. Witnesses move away, refuse to testify, or simply forget.

The result is "revolving door justice" which discourages police and prosecutors, disgusts the general public, and fails to deter or imprison dangerous criminals.

We can no longer afford to let trial delay make a mockery of our criminal justice system. If punishment is to provide the strongest deterrent to crime, it must be swift and certain. I believe, therefore, that Congress has a responsibility to concentrate Federal funds to help States achieve this objective.

My bill allocates 40 percent of LEAA action funds to speeding up the processing and disposition of criminal cases. It requires States to develop comprehensive multiyear plans for accelerating the criminal justice process. These plans would have to include specific annual goals for reduced case backlog and decreased trial delay.

The bill recognizes that the criminal justice process consists of interrelated components—courts, prosecutors, public defenders, and supporting agencies. It, therefore, makes funds available to each of these components. Because of the constitutional separation of powers, the bill provides an independent funding mechanism and separate planning funds for the courts. At the same time, it requires coordinated planning among all the components of the process, so that no one area becomes a bottleneck.

Finally, the bill sets up, within LEAA, an Office for Speedy Trial Assistance. This Speedy Trial Office would be responsible for providing technical assistance to the States, for reviewing State plans, and for seeing that the goals set by the States are met. While allowing the State courts and law enforcement professionals maximum freedom to develop solutions to their particular problems, it will help to assure that the Federal funds are used effectively.

Although trial delay is a serious problem nationwide, it may be less severe in some States. The bill, therefore, allows a State which does not need to spend 40 percent of its LEAA funds on speedy trial projects, to use these moneys as ordinarily block grant funds for any worthwhile law enforcement purpose. Thus, without unnecessarily restricting any State, under my bill LEAA will undertake a massive effort to improve State criminal justice systems and achieve the goal of swift and sure justice for the innocent, the guilty, and for society at large.

2. FIGHTING JUVENILE CRIME

The second area of concentration in my bill is on the problem of juvenile crime. Juveniles commit nearly half the serious crimes in America. According to LEAA, the peak age for arrest for violent crime is 18 years, followed by 17 and 16 years. The peak age for major property crimes is 16 years, followed by 15 and 17 years. And juvenile crime is increasing at a pace which far outstrips the overall rise in the crime rate. Thus, according to the General Accounting Office, from 1960 to 1973 arrests of persons under the age of 18 increased by 144 percent, while arrests of adults increased 17 percent.

Perhaps the most frightening and discouraging aspect of the juvenile crime problem is the criminal justice system's general inability to deal with juvenile offenders. It does not know how to rehabilitate them. It fails to separate runaways from hardened or severely disturbed offenders. It does not have adequate treatment facilities or alternatives to incarceration. Instead, the criminal justice system simply washes its hands of juvenile offenders, in most cases returning them untreated to the environments which created them and to the streets where they may commit additional crimes. Against this background, it is not surprising that an estimated 60 to 85 percent of juvenile offenders commit additional crimes after conviction.

While State and local governments have been unable to deal with juvenile crime, the Federal Government has been unwilling to provide help. LEAA has never funded juvenile crime programs adequately, both because of its own neglect and the low priority which States generally have given the problem. Although the Congress gave overwhelming approval to the juvenile Justice and Delinquency Prevention Act of 1974, the administration has consistently sought to reduce or prevent the funding of programs under this act.

I believe the Federal Government must lead a strenuous and sustained effort against juvenile crime. My bill requires that juvenile crime programs, whether funded under the Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act, receive at least 15 percent of Federal anticrime moneys. While the States would have a good deal of freedom in fashioning their programs to meet local needs, they would have to meet rigorous evaluation requirements to determine and demonstrate whether these programs are working.

The bill also expands the role of the National Institute for Juvenile Justice and Delinquency Prevention, to make it a useful source of technical and professional assistance. The Institute will receive evaluations of all LEAA juvenile crime programs, and will, working with the National Institute of Law Enforcement and Criminal Justice, be able to guide States toward effective programs.

I believe that the 15 percent guarantee of funding in my bill constitutes the barest minimum that should be spent on this major aspect of our crime problem. I hope that States will augment this amount with other LEAA funds, and with increased State and local expenditures on combating juvenile crime. In addition, I am hopeful that after LEAA assistance has helped States resolve the problem of trial delay, we in Congress can significantly increase the amount of Federal funds specifically earmarked for fighting juvenile crime.

3. IMPROVING CORRECTIONS

The third focus in my bill is on improving State correctional systems and programs. Prisons, traditionally the last in line for funding, have been a dismal failure. They do not "correct"; they do not rehabilitate inmates; they are breeding grounds for professional criminals; they are dehumanizing institutions which create resentment against society and disrespect for law.

It is estimated that from one-third to two-thirds of persons released from prison will commit additional crimes within 5 years after their release. While numerical estimates on recidivism rates vary widely, and while no one really knows what percentage of all crime is committed by repeaters, the enormity of the problem is undisputed.

The present LEAA act provides funds

for State correctional institutions and programs. My bill retains this part of the act and allocates 15 percent of LEAA funds to this purpose.

To assure that these funds are used most effectively, the bill creates an Office of Corrections. The Office of Corrections is responsible for assisting, monitoring, and reviewing State corrections efforts. It should be a valuable source of expertise and guidance to the States, enabling them to find useful approaches and avoid unsuccessful ones. The Office will be assisted in this regard by the bill's requirement of increased evaluation of LEAA corrections programs. With its provision for stepped-up evaluation, guaranteed funding, and continuous professional assistance, my bill should produce significantly better results for Federal corrections aid efforts.

The concentration of LEAA funds on three areas of particular concern should help to resolve the problem of the diffusion of Federal anticrime efforts. I would point out, as well, that under my bill 30 percent of LEAA funds will continue to go to the States as block grants, without categorization. In addition, as I explain in greater detail later, the earmarking requirements can be waived, where appropriate, to increase the block grant funds available to a State.

II. INCREASING THE IMPACT OF LEAA PROGRAMS

I believe it is essential that we take steps to correct LEAA's second chief problem—the need to assure that LEAA funds are spent on programs that work.

Virtually every study of LEAA has concluded that its monitoring and evaluation efforts are totally inadequate. Goals for specific projects are vaguely defined or not defined at all. Projects are not evaluated in terms of their success in achieving their objectives or their impact on reducing crime. As a result, LEAA generally has no idea of which of its programs have worked and which have failed. In fact, LEAA does not even know what all of its money has been spent for.

1. SPECIFIC STANDARDS AND GOALS

My bill makes a number of improvements in this regard. In the first place, it requires each State's comprehensive plan to set forth specific standards and goals, and to indicate the role of projects in achieving those goals. This will enable State plans to be evaluated, both by LEAA and the State, for their responsiveness to local criminal justice needs. In addition, the setting of specific goals for funded projects will establish a basis for assessing their merits and their contribution to the overall State anticrime effort.

2. IMPACT EVALUATION

The bill requires that each project funded be evaluated in terms of its success in achieving specified goals and its impact on reducing crime. This requirement is essential in making LEAA more effective, for only through such impact evaluation can useful programs be discovered and repeated, and unproductive ones avoided or terminated.

While the States are given the primary responsibility for evaluating their LEAA programs, my bill provides that evaluation will take place under the professional supervision of the National Institute of Law Enforcement and Criminal Justice. The Institute is given the authority to develop criteria for making and reporting evaluations. It will assist the States in developing evaluation procedures, and assure that evaluation results in one State are comparable with results in others.

The Institute will also serve as a clearinghouse for information about LEAA programs. It will receive evaluations of all projects, and make independent evaluations. It will be able to advise States about the most promising approaches to particular problems. In addition, working with the Speedy Trial and Corrections Offices, which the bill creates, and with the existing Office of Juvenile Justice and Delinquency Prevention, the Institute will develop particular expertise in these crucial areas. It will help these offices provide the most effective solutions for the States.

3. REPLICATION OF SUCCESSFUL PROGRAMS

A third feature intended to improve LEAA's impact is the bill's requirement that, beginning in the fiscal year 1979, each State spend at least 25 percent of its block grant, corrections, and juvenile crime funds on projects that have already demonstrated success in achieving particular ends. This requirement assures that while States are given freedom to experiment and find new answers to their problems, at least some portion of Federal funds will be spent on programs that have already been proven successful. No State would have to accept any particular program, and States would not be required to terminate projects that are promising, but at the same time, each State would be making some progress based on prior experience elsewhere.

4. REPORTS TO CONGRESS

Finally, the bill requires LEAA to provide Congress and the President with detailed reports about its activities, and about State plans and projects funded under the act. This will enable us to learn regularly how the program is working and whether changes are necessary.

Careful monitoring of LEAA programs will not only help us to assure that Federal funds are being used to their best effect. It will also assist us in reconsidering priorities under the act. My bill contains a 4-year authorization. At the end of that 4-year period, depending on circumstances, Congress could well decide, for example, to reduce the emphasis on speeding trials and increase the focus on juvenile crime or on another area entirely. We must be prepared to shift priorities so that LEAA programs remain continually responsive to the most serious crime problems.

These four requirements—the setting of specific standards and goals, impact evaluation, replication of successful projects, and increased reporting—will, in my opinion, assure both that LEAA is an effective weapon against crime and that Federal tax dollars are not simply going down the drain.

Footnotes at end of article.

III. OTHER IMPROVEMENTS

1. INCREASED FREEDOM FOR STATES

While my bill limits the discretion of the States under LEAA by earmarking funds to certain top priority areas, it also increases the freedom with which States can use their LEAA funds.

In the first place, the bill allows a waiver of earmarking requirements. Thus a State which does not have a serious corrections problem, for example, can use corrections funds as part C block grant moneys.

The bill does away with the laundry list of objectives in part C, so that States will not be required to spread their block grant funds over the whole range of law enforcement and criminal justice activities. Thus, while the comprehensive planning process will continue at the State level, States will be able to target LEAA funds according to their own needs and priorities.

The restriction that no more than one-third of an LEAA grant may go to personnel costs is eliminated. This restriction has had the unfortunate effect of concentrating LEAA expenditures on hardware of dubious value. It is unnecessary.

The bill also does away with the paperwork-producing requirement that States submit new comprehensive plans annually. Instead, the bill encourages States to engage in long-range planning, updating their plans annually to reflect such changes as are needed.

2. AID TO LOCAL GOVERNMENTS

The bill establishes a $100 million annual program of aid to cities of over 250,000 population in order to combat the crimes of homicide, robbery, rape, aggravated assault, and burglary. I described this program in detail in my statement on H.R. 12362, the predecessor to today's bill. The program focuses on the crimes which cause the greatest concern to most Americans and on the localities with the most severe crime problems. Unless an effort such as this is made on the Federal level, America's cities will continue to be shadowed by the fear and reality of violent crime.

In an effort to allow localities greater freedom in meeting their particular crime problems, my bill establishes a "mini block grant" procedure. This provision, based on the work of Senator EDWARD KENNEDY, would allow major cities and urban counties to carry out their own local plans with a minimum of State control.

The only restrictions would be that those cities and counties meet State evaluation, audit, and monitoring requirements, and that they undertake comprehensive local anticrime planning. In order to assist them with regard to the latter, the bill also increases to 50 percent the portion of LEAA planning funds which a State must pass through to its localities.

3. CHANGES IN LEAA STRUCTURE

My bill changes the structure of LEAA to accommodate the increased role of the National Institute of Law Enforcement and Criminal Justice, and to establish a clear distinction between LEAA's

professional and bureaucratic functions. Thus, one Deputy Administrator is made responsible for "Research, Development, and Evaluation." That person will be in charge of the Institute, and its programs of professional and technical assistance. A Deputy Administrator for Program Management will be responsible for administering LEAA aid programs. By separating the bureaucratic and professional arms, and by placing evaluation authority on the professional side, I have sought to assure that States will receive useful guidance and technical aid from LEAA, without reams of red tape.

CONCLUSION

Mr. Speaker, I hope that Congress will act quickly on H.R. 12362, which I introduced several weeks ago, to extend and improve LEAA's programs for the next 15 months. That 15-month period will allow time for Congress to consider and, hopefully, enact the substantial changes that I am recommending today. I firmly believe that these changes are essential to making LEAA a genuinely effective Federal attack on crime.

ORPHANS OF THE EXODUS FROM THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, the town of Tula in the Soviet Union seems very remote to those of us caught up on our own schedules of day-to-day living. However, there is a drama unfolding there which, if we allow it to, can touch the very centers of our lives.

Yakov Izrailovich Beilin and his family await permission to leave the Soviet Union to join his mother in Israel. The Beilins understand what it means to wait. While many of us await events with excited anticipation, their waiting has been filled with fear and memories of broken dreams. The Beilins waited through World War II as many of their relatives, including young children, were exterminated. They shared Yakov's father's long and lingering illness until his death in 1973. The senior Beilin's dying wish was that his family move to Israel to join his only sister.

Like many other Jewish families, the Beilins applied to leave Tula in June of 1974. Yakov's mother's request was accepted and she left, frail and alone, to begin life in Israel. With no explanation the rest of the family was denied permission to emigrate.

So, they wait, separated and alone, to fulfill a wish—to pursue a dream. I am honored to share with other Members of Congress the Beilin's vigil of courage and faith. It is with hope that I join these friends in calling upon the Soviet Union to abide by its agreement to the Helsinki Final Act.

The Beilins and other "Orphans of the Exodus from the Soviet Union" have waited long enough.

THE TRIO PROGRAMS AND EOC'S: A SUCCESS STORY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. CHISHOLM) is recognized for 5 minutes.

Mrs. CHISHOLM. Mr. Speaker, this year we will celebrate a decade of activity by the Talent Search and Upward Bound programs, 5 years of special services and 2 years of the educational opportunity centers, all federally funded programs administered by the U.S. Office of Education. These have been and remain four of the few examples of programs that are designed to equalize postsecondary educational opportunities for America's low-income, disadvantaged populations. Although the programs have different origins in different agencies, they were brought together in 1969 in OE as a continuum of activities and services designed to identify students of exceptional potential for postsecondary education; those who offer promise of success but who possess inadequate secondary school preparation; and those who are already enrolled in postsecondary education but whose inadequate secondary school preparation hinders them from graduating. Grouped together, the first three programs are known as the TRIO programs.

On the eve of this decade of program activity, we might pause to look at these programs from an historical viewpoint, and evaluate them as major Federal vehicles to enhance equalized educational opportunities for young men and women who, because of deprived economic and educational circumstances, were and are in need of educational assistance. The Federal Government has and must continue to intervene at two distinct but related levels in order to achieve equal educational opportunity for all citizens: First, it must provide resources for all students who need assistance in financing postsecondary education; and second, it must provide supportive services which will enable students to complete educational programs.

Debates over financial barriers and deprivation by geographical location, ethnicity, age, sex, and minority status often confuse basic issues. A student's financial and minority status, while still very relevant, are not the only major barriers, particularly since the implementation of the Higher Education Act of 1965 and the subsequent amendments. The lack of academic competencies is another of equal magnitude. The inadequacy of precollege education still prevents many Americans from developing their full potential and limits their educational experiences. And those lucky enough to gain admission to postsecondary education may suffer from the deficiencies of poor secondary education, particularly if they are disadvantaged, low-income students.

Federal assistance for these students is found in the four programs of OE's Division of Student Support and Special Programs: Talent Search, Upward Bound, special services and educational opportunity centers. Talent Search was designed in 1966 to accompany the newly authorized educational opportunity grant program. In 1968 the Congress changed its thrust and asked the program to serve students of exceptional potential for postsecondary education, secondary and postsecondary dropouts, and to serve as a vehicle to publicize existing forms of student financial aid available for postsecondary education. Hampered from its beginnings by a small appropriation—$2 million in 1966—the current program serves 110,000 students with a $6 million appropriation funding 116 projects. Over the past decade the program has worked with hundreds of thousands of students; 450,000 since 1971. Certainly a significant number of young men and women have entered postsecondary institutions at a minimal cost. Statistics show that 215,000 of the 450,000 did in fact enter postsecondary education. The 1975 average cost per student aided by the program is about $55—a small enough sum of money to right historic wrongs. Talent Search projects are located in every State of the Union, found on Indian reservations, and even operational in Guam. Last year 52,347 young blacks, 20,719 whites, 22,357 Spanish surnamed, 12,020 American Indians, and nearly 1,000 Orientals participated in the program.

The Upward Bound program originated in the Office of Economic Opportunity as a pilot program in 1965, and was made a national community action effort in 1966. We transferred the program to the Office of Education in 1968 where it has continued to flourish. Currently, 355 regular projects serve 35,993 secondary students, and 48 projects serve 30,814 veterans. You will remember that the Congress appropriated $5 million in 1972 for this special activity for veterans for 1 year. The Office of Education has continued the program through regular funds since 1973 because of the need to help undereducated veterans take advantage of the postsecondary benefits of the GI bill. It is my considered view that we will want to think about transferring this function to the veterans cost of instruction program so that a single program can administer educational assistance to veterans.

Upward Bound means a variety of things to a variety of individuals. A mother in Louisiana wrote, "Ever-body need to be a part of sumthin." Until Upward Bound came along, there was no hope for her son, Octave, who had an "F" average in school. Today, a graduate of Southern University, Octave is an insurance agent and plans to run for public office. Similarly, a Dillard University student with a history of probations, has received an M.A. at Lehigh University and is a doctoral candidate at the University of Chicago. In my own city of New York, there is a stunning case of a young black student who joined Upward Bound in 1966 with a 65 average. He graduated from high school and attended college at Hofstra. After flunking chemistry three times, this young man has recently earned his M.D. There are countless success stories of this important program. It is unfortunate that we know so little of the human side of Federal assistance.

I am very much impressed with the creativity of Upward Bound—a project at the University of Miami stresses public health careers; there is a special science component to the program at Oakland University, a music program at

Michigan State University, a project at Murray State University which introduces students from other projects to their first outdoor academic experience and a Spanish language institute at Claremont College. The preengineering program at Marquette University has attracted $30,000 in corporate support plus $40,000 from the Alfred P. Sloan Foundation.

OE has currently funded a study of the program following the GAO review of 14 projects of 1974. Using a control group, the current study is providing very concrete statistics that you will find interesting. The control group, I am told, with similar backgrounds and similar high schools, sends about 30.33 percent of its students into postsecondary education. Upward Bound students enter postsecondary education at a 66- to 70-percent rate. Both groups have significant retention rates, but Upward Bound has a 3.5-percent margin over the control group. That is a significant difference when multiplied against thousands.

We of this Congress should be very interested in this report when it becomes available. A 66- to 70-percent success rate in any Federal enterprise is more than worth the expenditure. Commonsense also tells me that any individual who has some postsecondary experience has opportunities unavailable to an individual without that experience. Of the current 35,993 students in Upward Bound, it is anticipated that 23,400 will enroll in postsecondary education within the next 2 years. That is a significant achievement.

The special services for disadvantaged students program became operational in 1970 after its authorization in the 1968 amendments. This program also has a distinguished history. Since 1970, 273,384 students have participated in the program. There are 327 current projects serving 86,400 students. Some of the statistics are very impressive. Last year, 23,163 students left the program; 6,473 had a satisfactory average before leaving; 2,485 transferred to other institutions, 5,508 graduated, 969 had insufficient financial aid, 216 joined the Armed Forces, 4,123 left for personal reasons, 62 died, 1,735 were dismissed for academic reasons, 304 were administrative dismissals, and for 687 it was deemed that further participation was not needed. I want to concentrate on 1,735 academic dismissals. That is 2 percent of the total population, and only 7 percent of those who left the program. Our legislation requires that special services serve students who without the benefits of the program would be unable to continue or resume a program of postsecondary education. A 2-percent attrition rate for academic reasons is remarkable by any measure of success.

The educational opportunity centers program is the newest of the special programs. Funded in 1974 as a pilot program, 12 centers were opened in a variety of settings—Indian reservations, small urban cities serving essentially rural populations, and major metropolitan centers. One is funded through a State agency, and one serves a bedroom community to a major city.

During the first year some 33,000 individuals received services from these centers. One of the interesting facts is that almost 80 percent of those served were over 18 years of age with 50 percent of that group over 25. Ten percent of the total were veterans, and almost 10 percent were physically handicapped.

During the initial year, slightly more than 14,283 students were placed into postsecondary educational institutions, and about 43 percent of those served began or reentered postsecondary studies. Students enrolled in every form of postsecondary education: 4-year colleges, 2,185; 2-year colleges, 2,716; proprietary schools, 2,600; vocational or technical schools, 1,770; and 5,139 went into training, remedial, or preparatory programs.

The educational opportunity center concept is a good one, though there may be questions about the effectiveness of a center attempting to serve both secondary and postsecondary clients. But it seems to me that a one-stop service center for individuals interested in obtaining information and help in postsecondary education, counseling about career opportunities, and some form of tutoring for those students who are in need of such additional services is something for us to consider.

I also want to bring the attention of the Congress to an important aspect of these programs that I have never considered before—the emergence of individuals who have directed these programs into specialists in the area of education and the disadvantaged. More than 10 former project directors are now college presidents, including Wendell Russell of Federal City College; 11 have become assistants to presidents of institutions; 11 have become vice presidents; 5 are provosts or assistants to provosts; more than 30 are deans of schools; 31 have become chairmen of departments or directors of special programs; and a host of these individuals have gone on to graduate degrees. Some have run and been elected to public office. Fourteen individuals long associated with projects are now in responsible positions with the Office of Education or other Federal agencies. The list is very incomplete and something that I would like the Congress to know more about, for this is a very positive aspect of project management and impact. It is extremely heartening that individuals selected, sometimes out of obscurity, have not only managed effective projects but have moved on to have a direct impact upon education. It is my view that this significant impact should be examined. Leonard H. O. Spearman, now Acting Associate Commissioner for Student Assistance in the Bureau of Postsecondary Education, was a Talent Search and Upward Bound director before coming to Washington. John Hill, now Deputy Director, Federal Energy Commission, came to Washington to work in the national office for Upward Bound.

These programs are too vital to be ignored. They address themselves to the possibilities of our age. They offer a creative outlet to students who because of the circumstance of their birth have never been truly able to participate in the American dream. Some statistics on this subject are in order.

The Current Population Reports, series P-20, No. 272, "Social and Economic Characteristics of Students: October 1973," shows that there are 15,845,000 individuals in the Nation, excluding the outlying territories, between the ages of 16 and 19. 12.4 percent of this group are not enrolled in high school nor high school graduates; 21.2 percent are graduates of high school but not enrolled in postsecondary education; 48.6 percent are enrolled in high school; and 17.7 percent are enrolled in college. It is my understanding that the term "college" is a definite one; for example, a 4-year institution; therefore, these statistics may be off. These statistics show, however, that almost 2 million individuals have dropped out of secondary school; that 3.3 million could have used Talent Search; that there are thousands of students among the 7.7 million still in high school that could use Upward Bound, as well as thousands among the 7.6 million of all ages enrolled in postsecondary education.

However, these statistics take on a different meaning if we look at other statistics from the Current Population Reports, No. 260, February 1974. One of the tables deals with dependent individuals between the ages of 18 and 24—12,854,000 individuals. A total of 917,000 individuals are from families with incomes below $3,000; 41 percent of this group were not enrolled nor high school graduates compared with 5.9 percent of those students from families with incomes over $10,000; 14 percent were reported to be in college compared with 47 percent of the upper income group; 45 percent we assume were high school graduates but not enrolled compared with 47.1 percent of the upper income. Hopefully you can see from such statistics that the range between dropouts and postsecondary admissions are the danger zones for low-income students. This is where we in Congress must address our efforts.

I would hope that this Congress still believes that the Federal Government still has a responsibility to provide equal educational opportunities by eliminating those educational barriers which hinder an individual from entering, advancing in, and completing postsecondary education. I hope that we will continue to serve low-income students but with a broader concept of low income to include the near poor as well. There are still too many individuals in this Nation that have erratic performance records, that graduate from or drop out of schools with inadequate resources and facilities. In short, we must address ourselves to the potential that is this Nation. It is not a vain thing to believe that we can improve the quality of life for all citizens.

ALTERNATIVE DEFENSE POLICIES

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, I commend to the attention of my colleagues an article in Foreign Policy by Prof. Earl C. Ravenal.

He outlines alternatives that challenges the foreign policy assumptions put forth by the Ford administration. As the Congress begins consideration of the largest defense budget ever requested, I feel this article makes a major contribution to that debate:

AFTER SCHLESINGER: SOMETHING HAS TO GIVE

(By Earl C. Ravenal*)

What James Schlesinger left behind at the Pentagon, after the Sunday morning firing on November 2, was impressive—and troubling. There was the virtually finished defense budget submission for fiscal year (FY) 1977, then in the neighborhood of $117 billion. There was the contentious conception of the requirements of national security in an increasingly dangerous and hostile environment. And there was the unsettled dispute with other cabinet departments and with Congress over the meaning of detente. These were Schlesinger's legacy to the new secretary, Donald Rumsfeld. They are, in a sense, the agenda for our foreign and military policy making for the next decade. And the results of the Great Debate on these matters—which Schlesinger tried so hard to inspire—will affect the American posture and role in the world long after that.

More important than any immediate changes are the fundamental questions that stake out the limits of the Great Debate. What do we need and what can we afford? What things in the world can't we live with, and what things must we live with?

Schlesinger dealt in large, philosophical conceptions and sweeping apocalyptic visions. In his farewell address, at the river entrance of the Pentagon, he returned to themes that had become his trademark. He deplored the "national mood of skepticism" and the "vacuum of spirit" that were sapping the strength and will of the nation. He insisted that detente be underpinned by "an equilibrium of force, the maintenance of a military balance," and so on. The former secretary has continued to pose these challenges. But the answers may not turn out to be just what he would like to hear.

Do we need that kind of role in the world, that ambitious set of objectives for our foreign policy? In particular, do we really need to keep up with the Soviets? And even if we would prefer to play that role, are we willing to pay the price—the $200 billion a year that it will cost by 1985, by the Pentagon's own estimates?

For the problem is: What happens if the country won't stand for a $148 billion defense budget by 1980 or a $200 billion defense budget by 1985? *Something will have to give.* And it may have to be our commitments, our interests, our fundamental concept of national security.

It is here that Schlesinger may have hoisted himself on the petard of his own logic—the elegant, articulate argumentation of his two Defense Reports for fiscal years 1975 and 1976 that show how we get "from here to there"; how we derive budgets from forces, forces from contingencies, contingencies from threats and commitments, and commitments from national interests. Here, finally, was a defense secretary who told the American people honestly, brilliantly, what it would really cost to maintain and defend their preferred role, their cherished values, in the world. And he may have succeeded only in pricing that role and those values out of their reach.

In this respect, President Ford knew better than Schlesinger. The real issue between the two men may not have been Schlesinger's professorial condescension or his stiff-necked attitude toward détente, but Ford's reading of how much the American people would stand for—and vote for. Of course, Ford wanted to have his cake and eat it, too. He wanted his arbitrary budget reductions and his penchant for being "number one" in the world. Schlesinger was too stubbornly honest to go along with this sleight of hand. But in the not-so-long run, the contradiction must be resolved; and it may not be resolved in favor of large defense budgets and global responsibilities.

The trouble is not that the American people have lost their *preference* for a global stance, a universal mission. It is just that a very large segment of them does not care enough to pay the startlingly rising price. It is not enough to point out that in "constant dollars," or as a fraction of gross national product, defense is costing less now than it did in the pre-Vietnam year of 1964. The fact is that, whatever the comparisons, defense is seen by Americans as an increasingly intolerable diversion of the national wealth.

GAMES CRITICS PLAY

But there are right and wrong ways of criticizing the defense budget. If critics try to make their case on the wrong basis—to impose cuts for the wrong reasons—they are likely to continue to fail. Even if they are "successful," they will simply distort our defense posture, or spread it too thin. Too often, in order to avoid facing the tough foreign policy issue, critics resort to nit-picking, fudging, and rhetorical ploys.

What are some of the games critics play?

1. They play *"the numbers game."* They simply gawk at the absolute size of the defense budget. They recite numbers of forces, bases, manpower, dollars, and then say "Wow."—the implication being that they have come upon some self-evident outrage or discovered some deep pathology of the system. But enumeration proves nothing. The numbers game begs the essential question of requirements: Do we need the forces? What are they for? There *are* such things as "the legitimate claims of national security." The trick is to find out, even approximately, what they are.

2. They play "peacenik." They premise a reduction of defense spending on the demise of "the threat." But other countries and movements in the world continue to assault the interests and positions of the United States. The question is what to do about these interests. Are they worth the costs and risks of supporting them—not just in peacetime, but if we actually had to defend them or retaliate aaginst an attack on them? There may be some real threats against which we might find it, on balance, prudent to default.

3. The critics claim a "new era." Suddenly, "military means" are no longer relevant to relationships among nations; they have been (as Congressman Henry Reuss put it) "superseded by political, social, economic, and moral power." But this proposition is a placebo. Of course everyone hopes that, in a crisis, diplomacy, economic inducements, and sympathetic ties will resolve the problem. But what if they don't work? Or what if they work only because "military means" lurk in the background? Simply hoping that nothing happens is not a policy. We might choose to limit our commitments in the future, but we should have the strength to defend the ones we keep.

4. Sometimes the critics play *"efficiency expert."* For lack of more compelling ideas, they nit-pick marginal Defense Department trappings. Favorite targets are the limousines, generals' orderlies, PXs, and lavish propaganda spectacles. Certainly many of these items are excessive, even obscene. And we would probably get more out of our defense budget if we structured and ran our forces as the Russians and the Chinese do. In any case, these efficiency proposals, though they make good political capital, would make little difference in defense spending.

5. Some critics play "leaner-tougher." They propose programs that support virtually all the present commitments of the United States, but with only a fraction of the forces. Certainly there is "fat" in our present forces. We could achieve better combat-to-support and officer-to-man ratios; fewer bases, headquarters, and command layers; more competent procurement and simpler weapons systems. In fact, Schlesinger himself beat some of the fat into muscle by converting excess support units into three additional combat divisions. But if we really tried to get the large savings that are sometimes alleged—up to 40 per cent of the defense budget—without touching the agreed foreign policy objectives, something besides fat would be lost. Sharp reductions of American conventional capability would lower the nuclear threshold, restrict the range of presidential options in a crisis, and place a heavy burden on our mobility forces to lift troops back to the theater of combat.

"Leaner-tougher" proposals are like the man who economized on fodder by mixing increasing amounts of sawdust into his horse's ration of oats. Just as he had hoped, the horse didn't notice the difference: but one day, as the man was beginning to congratulate himself on his efficiency, his horse died. The point is not that the savings can't be made, but that budget-cutters must accept the consequences of their fiscal proposals.

6. "Bureaucratic politics" is a popular game. The rule of this game is that the only way to control defense spending is to impose arbitrary "fiscal guidance" from the top down. The military services would be given their shares at the beginning of each budget year, and they would apportion the damage as they saw fit. True, fiscal guidance (which was actually adopted by the Nixon-Laird regime) stifles squabbles among greedy departments before they even start. But it puts decisions on forces and weapons systems up to the military services; and these decisions could skew future defense programs and foreclose future policy choices.

7. Finally, there is "diplomatism." This game confuses the American presence abroad (our bases and deployed forces) with our commitments. The diplomatists themselves are ambivalent. Sometimes they complain that our presence causes us to be "overinvolved," as if a partial withdrawal would insure us against involvement; and sometimes they claim that our presence is stabilizing and to remove our troops or close our bases might "send false signals" and encourage defections by allies and miscalculations by adversaries. Their usual prescription is to reduce slightly, but not withdraw; maintain our presence, but less conspicuously; keep our commitments, but fail to fund them adequately (as if our friends and adversaries did not know how to count).

All of these games allow us to keep our present foreign policies, while hoping for reduced defense budgets. They postpone the re-education of the American people to the basic contradictions of our situation in the

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world. There may be no way of maintaining all of our national interests, predilections, and habits within the constraints—international and domestic—that are pressing us so hard.

WHAT CAN BE DONE?

A more honest response to this situation may be in order. There is a case to be made for wide-ranging and deeply trenchant cuts in the defense budget. But there will have to be a more "radical" approach. In short, the case will have to be made precisely in terms of a new kind of foreign policy. Such an approach would be based on two propositions.[1]

1. Large cuts in the defense budget—on the order of $40 billion a year—are possible if we severely limit our foreign policy objectives. But the savings should not be the dominant motive for initiating these strategic changes; the motive should be to adjust to unsatisfactory choices and avoid disastrous situations.

Of course, these wide moves should not be accomplished all at once. A large, significant nation like the United States simply does not take precipitate actions; and a readjustment of our military posture should not look like a punishment of our allies. What we can do is establish a general and consistent direction, and we can begin a process of adjustment, even if it might take a decade to complete. We can start this now, and we can do it unilaterally.

2. But large cuts in the defense budget can be made only if there is a fundamental change in U.S. foreign policy. Ironically, last year's non-debate in Congress proved this—by not making large-scale cuts because it did not challenge basic premises. Unless we change the basic items of our global "interests," there is little hope for—and perhaps even less sense in—a substantial reduction of that $200 billion defense budget that looms ahead.

What is entailed is a different definition of the national security function. We should return to a very pristine notion: that the national security function is to guarantee that no part of the United States is attacked and destroyed by an enemy's forces (whether nuclear or conventional); that our soil is never invaded and occupied by a foreign power; that our internal processes are never dictated by the threat of another nation (or nonnational group); and that American lives and property are not spent except in the obvious and necessary defense of those objectives. To protect other objects that do not contribute to these security objectives is actually to risk our own security by binding it to that of others.

Specifically, our posture toward allies should be to encourage their self-sufficiency and allow them to operate independently in their foreign policies, even to the point of accommodating the present adversaries of the United States. And our posture toward the Third World should be to maintain a more permissive attitude toward a diversity of revolutionary experiments.

The security of others—though by definition a "vital interest" for them—is not synonymous with the security of America. The term "vital" should be reserved for those truly supreme interests that derive so strictly from our identity as a nation that they could not credibly be alienated. Thus, we should draw back to a line that (1) we must hold, as part of the definition of our sovereignty, and (2) we can hold, as a defensive perimeter and a strategic force concept that can be maintained over the long haul.

ADVICE TO BUDGET-CUTTERS

Critics of defense spending will not be effective until they understand how the defense budget is put together and how defense policy relates to foreign policy. Luckily a lot of good advice can be compressed into two practical suggestions:

1. If we give up certain defense objectives, we can take whole cuts in the forces "needed" for those objectives. The entire defense budget can be allocated to either "general purpose" forces or "strategic" forces. And general purpose forces (those forces that do not deter or mitigate direct attacks by the Soviets, or others, on our homeland) in turn can be identified with geographical regions where we have commitments. Thus, foreign policy and defense budgets are linked, though the relationship is not as neat as we might wish. But the main point shines through: Forces must be for something.

General purpose forces take up over 80 per cent of the entire defense budget (for FY 1976, $85 billion out of the total requested authorization of $104.3 billion). The cost of our commitment to Europe alone (including its southern flank in the Mediterranean and Middle East) is $47 billion a year.[2] Asia comes to $23.5 billion, and the rest of the world, including our general strategic reserve, takes $14.5 billion.

U.S. forces for the Third World do not amount to much in budgetary terms (though their effects on the target countries have, of course, been large). And the moderate-liberal critique, since it shares the administration's concern for Western Europe, Israel, and Japan, cannot effect much of a saving. To cut deeply into the defense budget, more would have to be given up.

In calculating savings that would result from abandoning certain defense objectives, it is important to contemplate disbanding the forces brought home from overseas. It is also important to consider eliminating units, even within the continental United States, earmarked for the defense of the overseas areas in question. This is particularly important in the case of Europe. Such proposals as the Mansfield Amendment in most past years did not disband the redeployed forces—which led to the justified criticism that it is even more expensive to keep such forces in the United States, and to provide the planes and ships to get them back to Europe in a crisis.

2. If we cut combat units, we can take "full slices"—including support units and overhead—out of the defense budget. The way to do this is to divide the rough number of basic combat units in each service into the entire budget for each service, and make proportional cuts in nonservice overheads such as defense agencies, defense-wide activities, and civil defense.

Through full-scale costing is somewhat wholesale, it is actually more "accurate" than the traditional costing of the services, which represents potential savings only as marginal. As the Pentagon "Whiz Kids" used to say, it's better to be roughly right than precisely wrong. Of course, support costs and overheads do not diminish automatically with cuts in the more obvious combat forces. They must be decreased by decision. That is, it takes some guts as well as some intelligence.

WHAT FORCES, AT WHAT COST?

What force structure, military manpower, and defense budget could this country have by the end of a decade, if it were to adopt a thorough and consistent noninterventionist foreign policy? We can lay out some illustrative and rough figures that indicate the magnitude of possible reductions in forces and budgets. At the very least, they provide a baseline, above which everything—defense budgets, force structures, strategies, and foreign policy objectives—can be severely challenged and must be rigorously justified. Of course, it would take a decade of adjustment to get down to these figures. And by that time, cost would be inflated accordingly from these 1976 dollars. (But the savings also would be greater; by 1985, they could be running at $85 billion a year.)[3]

We can put this force structure together by regions. In Asia, a noninterventionist policy would entail a mid-Pacific posture—not the administration's redundant construction of bases in the Marianas to hedge against the denial of Western Pacific bases and to maintain the capability of intervention in East Asia. It would mean no American forces or bases west of Guam, no military assistance to Asian clients, and phasing out all military alliances and defense commitments—to be succeeded, in some cases, by nonmilitary treaties establishing various forms of cooperation and formulas of mutual trust. It would mean the end of declaratory statements of policy that commit us to intervention or the threat of intervention.

We would not attempt to replace the American presence by devolving nuclear or other arms upon presumed proxy states, particularly Japan. Nor would we invest American diplomatic effort or national prestige in the establishment of regional defense associations. If such evolve, we might look benignly upon them, or ignore them; we would not acquire a stake in their creation or orientation. We would, in short, allow an indigenous "balance" to establish itself among the great territorial powers in this region—China, Japan, and the Soviet Union—and stand clear of the determination of their competitive and collaborative struggles and schemes.[4]

Asia would be the first region in which we would implement a policy of nonintervention. At the end of a half-decade of adjustment, total forces maintained in the active force structure with some nominal orientation to Asia might be: two land divisions (one Army and one Marine), and six tactical air wing equivalents (two Air Force; one Marine, which is equal to two; and two Navy carrier wings operating from three carrier task forces—one forward, one rearward, and one in overhaul). This force structure for Asia would cost $11.6 billion a year, $11.9 billion less than the present structure. Withdrawal from Korea alone would be worth about $4.5 billion a year.

Though revision of our commitment to Europe (including the Mediterranean and the Middle East) is the source of the greatest potential savings, it also, of course, poses the greatest risks and consequently requires the most complex—and perhaps tenuous—rationale. The application of a policy of nonintervention to Europe would require the most exacting and patient diplomacy, and would take at least a decade to implement. We might hope for—but could not ensure or compel—an orderly and sufficient devolution of military power and defensive responsibility. Contemplating some future "worst case," we would have to accept the unlikelihood of effective American support and the prohibitive unattractiveness of escalation to nuclear catastrophe. In the Middle East, also, our policy would aim at disengaging from, rather than intensifying, our involvement. Particularly, we would not aggravate the dependency of Israel or other nations on the United States, and we would guard strenuously against the economic impact of any future conflict.

At present we provide, in Europe and the Mediterranean, five division equivalents (almost all Army) and two carrier task forces; and, in and around the United States, earmarked for Europe, an additional five and two-thirds divisions (five Army and two-thirds Marine) and four carrier task forces to back up the two forward. We keep sixteen and a third tactical air wing equivalents in the theater, and in the United States primarily for European contingencies. At the end of a decade of adjustment, there might be no American forces in Europe, and in and

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Footnotes at end of article.

around the United States, in some sense oriented to Europe and the Mediterranean, three and a third divisions (three Army and a Marine brigade), seven and two-thirds tactical air wing equivalents (five Air Force; one-third Marine, which is equal to two-thirds; and two Navy), and three carrier task forces. This force structure for Europe would cost $19.5 billion a year, $27.5 billion less than the present structure.

Besides the forces loosely oriented to Asia and Europe, this noninterventionist force structure would include an active strategic reserve of two and two-thirds divisions (two Army and two-thirds Marine) and five and one-third tactical air wing equivalents (four Air Force and two-thirds Marine, which is equal to one and a third). This strategic reserve would cost $15.7 billion a year—slightly more than at present.

With a shrinking of overseas forces and overseas military objectives, there would be a diminished function for our surface Navy, our attack submarines, and our antisubmarine aircraft.

With regard to strategic forces, we should challenge the "triad" of redundant systems—fixed land-based missiles, bombers, and submarines. The presence of missiles on our soil exposes our homeland to destruction, actually making us less secure. And fixed land-based missiles become more destabilizing with the development of Soviet accuracy and multiple independently targeted re-entry vehicles (MIRVs). We could move to a dyad, consisting of stand-off bombers and submarines. But, in any case, it makes sense to cancel or stretch out certain very expensive individual weapons systems. The B–1 bomber, which could cost $90 billion over its 30-year lifetime in procurement and operating costs, should be canceled. The Trident submarine (which will cost over $20 billion for just 10 submarines) could be substantially delayed, even if we were to rely primarily on undersea weapons. Moving to a dyad of forces, canceling or stretching out some programs, and cutting some air defense would reduce the cost of strategic forces from $19.3 to $13.2 billion a year.

Altogether, this noninterventionist force structure would provide the following general purpose forces: eight land divisions (six Army and two Marine), 19 tactical air wing equivalents (11 Air Force; two Marine, which are equal to four; and four Navy), with six carrier task forces to sustain two forward. With the addition of a dyad of strategic nuclear deterrent forces, it would require 1,250,000 men (385,000 Army, 370,000 Air Force, 365,000 Navy, and 130,000 Marine Corps). The total defense budget would be about $60 billion a year for FY 1976.[5]

REBUTTING SOME PRESUMPTIONS

The arguments for drastic cuts in forces and defense budgets are not new, and the objections to them also are not particularly novel. They usually take three courses:

1. We will lose our control over the entire international system. The new twist on this is that, in an "interdependent world," if we do not prepare to maintain our strategic position, our economic vulnerabilities will increase, we will be shut out of markets and lose access to raw materials, and the international economic order will become structured to our disadvantage.

Of course, there is weight in this argument. But presumably we could also trade on the basis of "mutual benefit" (as the Chinese "Five Principles of Peaceful Coexistence" put it), whether or not we control the seas or the land-masses on the other side (even in the Middle East). Our newly discovered commercial interest in the Soviet Union demonstrates this: Trade doesn't depend on the assertion of military might or on the maintenance of a military balance. The real point, however, is that, in the long run, markets and sources that cannot be secured without projecting the shadow of our military forces are not worth the cost.

2. We will fall behind the Soviet. But must we match the Soviets in any and every category? And must we wait for reciprocity from the Soviets in order to restrain our own force build-up or carry out cuts in our deployments? These are the twin arguments of "symmetry" and "summitry."

Schlesinger was in the habit of citing fearsome increases in Soviet activities, as are some other advocates of higher U.S. defense budgets.[6] But the short, and unkind, answer is: So what? Just as our defense objectives need only be finite, our force structure can be finite. Particularly in the area of strategic deterrence, our posture can be independent of Soviet initiatives, because the target system to which our strategic forces are addressed is only so large. (Of course, our nuclear forces must be able to survive a Soviet attack and get through to those targets, whatever they might be.) Yet Schlesinger argued that there must be "essential equivalence" of American and Soviet strategic forces in "the perceptions of the nonsuperpower nations." On the contrary, we should make it clear, to allies, adversaries, and bystanders, that we are simply not playing the Russians' game.

The parallel argument has to do with arms reductions. Must we wait for Soviet reciprocity in order to carry out reductions or impose limits on our own forces? Schlesinger used to warn:

"We must avoid unilateral reductions. . . . Reductions should result from international agreement rather than from temporary budgetary exigencies or the impulse to set a good example. . . ."

But our defense moves can be unilateral. We don't have to await the glacial pace of negotiations, accept the disappointingly high negotiated ceilings, and create bargaining chips that get frozen into force structures and become part of the problem.

Unilateral approaches are not based on some fatuous hope of converting the Soviets by our "good example." The point is simply that we don't need the Russians to match our reductions any more than we have to match their increases.

3. The third objection to force retrenchments and defense budget reductions is that our friends and allies would be threatened. There is a large element of truth in this. But the real answer to this objection is not to make a tour d'horizon, asking: "What will happen to Western Europe?" "What will Japan do?" And so forth. The answer is to make a rather different kind of argument—really, the complement to the argument up to this point: that we are caught in a web of domestic constraints and cannot meet ambitious and demanding defense objectives. We now must consider the proposition that even if we would continue to generate significant resources and support, the effort would probably fall short.

The point is that the whole interventionist premise—whether it represents a faith in alliances or in collective security—is gravely flawed by the new circumstances of the international order, particularly by the diffusion of nuclear weapons. Unless we are willing to believe in perfect deterrence, we must at least contemplate the cases in which specific nuclear threats, and even nuclear attacks, would have to be made. What we see is that the costs and risks of defending our allies, and therefore the prospects of our coming to their aid in serious trouble, are shifting, whether we like it or not.

It is not good enough to talk about "selectivity" of commitments. (As a matter of fact, we don't seem to have become much more selective since we were deprived of Indochina last year.) Whatever those "selected" objects of our foreign policy, ultimately we must risk nuclear war in their defense. Often, the integrity of our commitment (especially in Europe) depends on the "coupling"—the unbroken and reliable linkage—of the U.S. strategic arsenal with the common first-line conventional defense.

Yet, when we stare the proposition in the face, there is little likelihood that the United States will exercise its strategic nuclear power, even for the most important objectives. There will be no public support for a strategy that risks a nuclear attack on ourselves. Moreover, it only has to be uncertain that an American president would push the button; the mere prospect of such a default undermines our alliances.

In many cases, nations that can no longer trust promises of American help will form stronger alliances of their own, make more prudent accommodations with adversaries, and perhaps arm unilaterally to fill the breach. (Some will be tempted to acquire nuclear weapons.) There is a double irony here: For those nations that do fend for themselves, not only will we need to do less but we will want to do less so that we will be less implicated in their less controllable policies. And for those nations that cannot fend for themselves, we will need to do more but we will want to do less since they are not contributing adequately to the common defense.

There is another reason why the interventionist premise is flawed, and why our alliances are inevitably crumbling. Alliances are not assets that can be left alone; they must be serviced, in several ways. (1) There must be tangible and appropriate defense preparations. (2) We must accord our allies some participation in command and control, and we must tolerate some of their resistance to paying their "fair share" of alliance costs (since in some cases we want the defensive arrangement even more than they do). And (3) we must undertake a host of ancillary, or second-order, commitments for the sake of the primary ones: For the sake of NATO (and Israel), we had to bargain for Spanish bases, tolerate Turkish abuse of our arms, feed Portuguese colonialism (for a while), *and placate Greek colonels. For the sake of* Japan, we must remain in Korea, and stonewall, diplomatically, on Taiwan.

But, increasingly, the American people regard the costs of alliance protection as disproportionately expensive, are reluctant to relinquish control of their fate to the actions of allies, and fail to appreciate the "strategic" reasons for commitments to unattractive regimes. What should be our response to this situation? It lies in a new way of looking at the world, and in a new conception of the function of foreign policy.

WHAT KIND OF WORLD?

We have to get used to a world that cannot be controlled by us, a world where we don't have the ability, let alone the right, to act out our needs for national self-esteem. On this score, the "new Wilsonians," the American moral-expansionists, are missing the point. It will be a world of "parameters" (intractable, recalcitrant circumstances), not preferences; a world shaped by constraints, not commitments. In short, a very different kind of international order from what we have become accustomed to.[7]

We can already discern some trends:

1. There is a decreasing ability of any single nation, or combination, to control the international system. This phenomenon can be defined as a diffusion of power—both the fragmentation of centers of effective and coordinated power, such as alliances or regional associations, and the intractability of sources of disorder and change to the application of political-military pressure.

It is doubtful that power will be distributed in such a way as to be manageable, in itself, and effective in compelling the necessary degree of cooperation among nations in matters of resources, trade, monetary ar-

Footnotes at end of article.

rangements, population, food, the oceans, and the atmosphere—not to mention attaining justice for peoples. Rather, it appears that power will be diffused to the point where it becomes unmanageable in itself, and unusable in influencing—or coercing, if necessary—constructive behavior.

2. The international system will probably continue to degenerate into a disorder more severe than we have known. Almost certainly it will not stabilize in some neat, balanced configuration of three or four or five nations or groups, coordinating on basic objectives and competing according to rules that are benign for the system as a whole—in short, a balance of power.

3. At any rate, few if any governing groups will have enough legitimacy to induce their nations to support actions, for the sake of international order, that are not in the obvious and immediate interest of the nation itself. As a particular case, the American public is unlikely to understand and support, or remain acquiescent in, even the lower scale of sacrifices and the more subtle risks involved in a balance-of-power policy.

THE COMPREHENSION GAP

The American Century is over. The era of American dominance and control, heralded by Henry Luce and established in the wake of World War II, lasted only 25 years. Of course, everyone "knows" that it is over. But our policy-makers have not absorbed this message, and our nation has not begun to adjust to its implications and consequences. This gap in comprehension of the state of the world is reflected in the current Great Debate about defense policy after Vietnam. And it might, partially, answer the question: Why has this debate so far been so shallow, desultory, and inconclusive?

The trouble is that we still seem to want to do the same things in the world, but more cheaply, more palatably. We are still striving to reconcile control with the increasingly arduous and tricky circumstances in which that control is to be exercised.

Our leaders have not even developed the language to deal in an appropriate way with the situation we are in. They still talk about "national interests," when no one knows any longer what an "interest" is. Not only the rhetoric, but the methodology is obsolete. The typical White House study or State Department tract, that passes for policy analysis, begins with a statement of American "interests," then proceeds in a stately sequence—a minuet—to the challenges to, or obstacles to, the fulfillment of those interests, then to the changes we must accomplish in order to defeat the challenges or make up the gap, and finally to the implementing moves necessary to bring about those changes. Rarely—and even then as an afterthought—is there a calculus of the costs involved in making these moves.

But what sense does it make to construct a wish-list of national interests, in the first place, if we already know that we cannot bear the costs and consequences of attaining them? For this is what has been changing—what we can and can't do in the world, what we must pay to get what we want.

All this should lead to a sense of the limits of foreign policy, even to a sense of the paradoxes of collective action in a world that is largely "given"—that is, not of our own individual making or determination. We need a better sense of these "parameters": those of our international environment and those that arise out of the conditions of our own domestic system; those that consist of the costs and difficulties of things and those that consist of the limits to action; the price of things we might want, the evil consequences and side effects, and the sheer transience of even our most "successful" national achievements.

Footnotes at end of article.

During this quarter-century of American dominance, we have experienced the final effects of the "Wilsonian paradox": that in trying to realize our values in the world we might destroy much of the world and end up perverting those values. And, as we have seen from Watergate, and also from the behavior of Nixon's predecessors, in order to save the world, we might have to destroy ourselves.

In short, it is our conception of foreign policy, and our expectations of foreign policy, that have to change. We must move from exercises of control to exercises of adjustment; from projecting our national values to protecting them.

More specifically, what should we do?

1. In the world economy, we should preserve autonomy of national decision and achieve relative freedom from vulnerabilities. This does not equate to a policy of autarky, but it does suggest an approach, within our means—much more than we have done so far—toward the capacity for self-sufficiency. We should place greater weight on developing specific hedges against the pressures and deprivations that may be occasioned by the hostility, opportunism, or simple incompetence of other nations. We should not preclude cooperative efforts to attain workable and livable regimes where such cooperation is preferable to purely national solutions. But we should not expect so much from present efforts that we fail to anticipate and discount noncompliance by other nations.

2. In international politics, we should achieve the flexibility to avoid conflict by divesting, rather than acquiring, commitments in situations we cannot control, and by providing insulation from the outcomes of situations we cannot afford to control.

It is not a matter of waffling on the "threat." A more resigned and accommodating posture does not proceed from any hopeful estimates of a "new era" where threats have disappeared. Nor does it imply that intervention will become unnecessary because we will develop other mechanisms or institutions.

Rather, we would accept a divisible peace, some reverses to our positions, and a loss of our special control over the course of the entire system. Least of all would we stoop to pick up all the sputtering "torches"—the failing and abandoned causes that Schlesinger sees strewn across our path. We know that even if we did, our response would not be sufficient, or in line with our effort. Though we might not enjoy all the consequences, we would live with them.

Of course, these are not yet acceptable propositions in the world of "responsible" foreign policy discussion. And all "responsible" debate is still contained within a presumption of very high defense budgets and large peacetime force structures. In fact, since the Vietnam war—and despite the Vietnam war—the hawks have regained much of their ground and have reasserted their custody of the "national interest" and the symbols of patriotism. In this respect, the real losers of the Vietnam war are the humanitarian's left, who tried to introduce a new value system, a new calculus, into U.S. foreign policy. Congress jumps clear of having its skirts muddied by the charge of "isolationism"; it abjectly concedes the substance of the administration's budgetary requests and diplomatic initiatives, while recording pro forma objections and making petulant assertions of procedural prerogatives. And strategic analysts who want to be taken seriously tarnish their credibility again with ominous talk about threats in Angola, the Indian Ocean, and the Persian Gulf, and the need for American response.

But there are stirrings of another kind of public sentiment that is at odds with the apparent restoration of consensus within the foreign policy "establishment." This public sentiment did not begin with, though it was accentuated by, the Vietnam experience. Actually it is the "traditional" American orientation to foreign policy; and it exists on the right as well as on the left. But it has been associated with narrow "isolationism," and in recent decades it has not been properly articulated. Perhaps there has not been an eloquent expression of this sentiment since the debate about the acquisition of empire in the wake of the Spanish-American War—the Great Debate in the press and in Congress concerning the annexation of the Philippines, in 1898–1899. Some, unfortunately not a majority, of the statesman and commentators of that time foresaw, in that extension of American power and control, the incurring of insoluble domestic problems—the future strain on our constitutional balance, the wreckage of the unique American social and political experiment—and thus counseled against the acquisition of attractive foreign positions and assets. These men were Republicans and Democrats, conservatives as well as liberals. They too had a flair for strategic analysis, and they were also patriots. They made many incisive and prescient observations during that winter of debate on the essence of the Republic, 77 years ago. Some of their statements seem to speak directly to us, across the abyss of three quarters of a century of sporadic foreign adventures. One is the speech of Senator George F. Hoar, in January 1899:

"If you ask them [the imperialists, the expansionists] what they want, you are answered with a shout: 'Three cheers for the Flag! Who will dare to haul it down? Hold on to everything you can get. The United States is strong enough to do what it likes. The Declaration of Independence and the counsel of Washington and the Constitution of the United States have grown rusty and musty. They are for little countries and not for nations.'"

The other is the article of William Graham Sumner, entitled, ironically, "The Conquest of the United States by Spain":[8]

"I have no doubt that the conservative classes of this country will yet look back with great regret to their acquiescence in the events of 1898 and the doctrines and precedents which have been silently established. . . ."

There was also, in this article, the sense that we cannot keep our advantages at home without, perhaps, accepting damage abroad:

"We see that the peculiarities of our system of government set limitations on us. We cannot do things which a great centralized monarchy could do. The very blessings and special advantages which we enjoy, as compared with others, bring disabilities with them. . . . [W]e cannot govern dependencies consistent with our political system, and . . . if we try it, the State which our fathers founded will suffer a reaction which will transform it into another empire. . . ."

Those who have more recently noticed this "constitutional trade-off" have been as diverse as George F. Kennan, Henry A. Kissinger, and Richard M. Nixon. But they have opted for altering our constitutional processes in order to favor foreign policy efficiency—to improve our score against more unified, totalitarian systems. But dreams of reform are not all that far from schemes of subversion. And thus the rational impatience of Kennan can end in the evasions of Kissinger and even the excesses of Watergate. Finally, Sumner's article comes to the questions of "isolationism" and patriotism:

"Our fathers would have an economical government, even if grand people called it a parsimonious one, and taxes should be no greater than were absolutely necessary to pay for such a government. The citizen was to keep all the rest of his earnings and use them as he thought best for the happiness

of himself and his family. . . . No adventurous policies of conquest or ambition, such as, in the belief of our fathers, kings and nobles had forced, for their own advantage, on European states, would ever be undertaken by a free democratic republic. Therefore the citizen here would never be forced to leave his family or to give his sons to shed blood for glory. . . .

". . . It is by virtue of this conception of a commonwealth that the United States has stood for something unique and grand in the history of mankind and that its people have been happy. It is by virtue of these ideals that we have been 'isolated,' isolated in a position which the other nations of the earth have observed in silent envy; and yet there are people who are boasting of their patriotism, because they say that we have taken our place now amongst the nations of the earth by virtue of this war. My patriotism is of the kind which is outraged by the notion that the United States never was a great nation until in a petty three months' campaign it knocked to pieces a poor, decrepit, bankrupt old state like Spain. To hold such an opinion as that is to abandon all American standards. . . ."

But how will policy changes come about now? Not by declarations or resolution. Probably not by debates in Congress. Certainly not through the merits of abstract arguments such as this. Rather, this country will come to them by a more painful process. Objective circumstances—denials, defeats—will impinge more closely on our national conduct. Through unsuccessful encounters we will learn that the game has changed. We will probably not recant our present expansive ideals; we will simply absorb our experiences, and make a piecemeal strategic reorientation—possibly a grudging and belated one. We will call our experiences "mistakes"—though that would not be strictly true. But nonetheless, we will come to a sense of what we can do in the world—and what we can *afford* to do.

At the moment, I suppose one could argue that our power—if we wish to commit it—still runs with our pretensions to create and support extensive order in the world. Indeed, the agricultural and technological deficiences of our adversaries and the uneven incidence of oil dependencies and monetary burdens on our allies, might have given the United States a relative advantage and a new lease on its economic and political ascendancy. But it is increasingly likely that American power will fall short of this universal scope.

The question, then, is not directly whether we "choose" to continue to exercise a global reach and command global interests, but, more indirectly and more fundamentally, whether we will continue to have the means and the competence, and whether our government's diverse constituency will continue to grant it a clear delegation of authority, to pursue such interests.

As we reflect on our next century of existence as a nation, we should recognize that we are caught in a dilemma of historic, not momentary, significance, and that we must make an appropriate accommodation, not to some specific set of antagonists, but to our own circumstances.

FOOTNOTES

[1] This case, and the counterbudget that follows, can be taken as an advocacy position; there is much to support it. Alternatively, it can be taken as an exploration of the limits and consequences of a serious retrenchment; in that sense, at least, it delineates the logic of the defense/foreign policy nexus and poses the conditions that would have to be met in order to make a radically different policy work.

[2] All official public estimates of the costs of European defense to the United States, and almost all unofficial estimates, vastly understate the full costs; they are commonly thought to be on the order of $4 billion to $14 billion a year; even some of the largest estimates run only about $36 billion. One way of trapping these costs is to take the FY 1976 defense budget of $104.3 billion (requested total obligational authority), initially identify the portions for strategic forces ($18 billion) and general purpose forces ($7.6 billion), adjust these to include retired pay (this yields $19.3 billion and $81.7 billion, respectively), multiply the general purpose force figure by a fraction (10⅔ over 19) representing the portion of active ground units oriented primarily to Europe (this yields $45.9 billion), and add military assistance for that region's allies. The resulting figure is $47 billion. (I am assuming that two of the three Army divisions recently added to the force structure are oriented primarily to Europe, and that the third is part of the strategic reserve.)

[3] Assuming the same 7.5 percent average annual rate of increase—whether through inflation or real cost growth—that Pentagon planners have figured into their projected $200 billion program by 1985.

[4] It is doubtful, even under these conditions, that Japan would acquire nuclear weapons. The attenuation of American support in itself is not a sufficient condition; the other condition—and a necessary one—would be a severe threat from Russia or China.

[5] This noninterventionist force structure and defense budget is far lower than that of the present administration for FY 1976: 19 land divisions and 40 tactical air wing equivalents, with 13 carrier task forces, 2,115,000 men, and requested total obligational authority of $104.3 billion, with initially expected total defense outlays of $92.8 billion.

[6] For another view of this question, see "How to Look at the Soviet-American Balance," by Les Aspin, in this issue.

[7] See the articles of Thomas L. Hughes, "Liberals, Populists, and Foreign Policy" (Foreign Policy 20) and Richard H. Ullman, "The 'Foreign World' and Ourselves: Washington, Wilson, and the Democrat's Dilemma" (Foreign Policy 21). It is unfair to capsulize the arguments of these two extraordinarily rich articles. I have no quarrel with their values. But I do disagree about the function of foreign policy. Beyond this, I sense that the Wilsonians are caught in a methodological trap. They ask what we would like to happen. They posit a preferred outcome or an acceptable range of decent outcomes. They then embrace policies that seem to lead to these preferred states of affairs, and implicitly veto any suggested course that leads to something else. (They differ from the "realists," who do these same things, by suffusing their preferred outcomes with moral significance, with values—our values.) The argument of the noninterventionists—my argument here—stresses the constraints of our domestic situation and the parameters of the international system. It acknowledges (1) that these constraints and parameters are increasingly rigid and unfavorable, in themselves, to the possibility of active, influential foreign policies, and (2) that they reinforce each other; for example, the worsening cost-benefit ratio of influencing an international situation by intervention in turn makes domestic support for intervention even more difficult to obtain.

[8] Yale Law Journal, VIII, January 1899, pp. 168–193.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. AuCOIN (at the request of Mr. O'NEILL), for April 8 through April 14, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MOORE) to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 30 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

(The following Members (at the request of Mr. MAGUIRE) to revise and extend their remarks and include extraneous matter:)

Mr. LEHMAN, for 15 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Ms. HOLTZMAN, for 60 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mrs. CHISHOLM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DELLUMS and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,287.

Mr. DAN DANIEL to revise and extend his remarks following the remarks of Mr. CHARLES H. WILSON of California during general debate in the Committee of the Whole today.

Mr. KOCH's remarks to appear immediately before vote on Seiberling amendment.

(The following Members (at the request of Mr. MOORE) and to include extraneous material:)

Mr. FORSYTHE in two instances.

Mr. CARTER.

Mr. HORTON in two instances.

Mr. WHALEN.

Mr. GRASSLEY.

Mr. FRENZEL in three instances.

Mr. SARASIN.

Mr. McCOLLISTER.

Mr. DERWINSKI in two instances.

Mr. FINDLEY in two instances.

Mr. ESCH.

Mr. LAGOMARSINO.

Mr. ASHBROOK in two instances.

Mr. MOSHER.

Mr. KEMP in three instances.

Mr. RHODES.

Mr. MICHEL.

Mr. GILMAN.

Mr. MILLER of Ohio in four instances.

Mr. STEELMAN.

(The following Members (at the request of Mr. MAGUIRE) and to include extraneous material:)

Mr. BROOKS.

Mr. ZEFERETTI.

Mr. LONG of Louisiana.

Mr. HUNGATE in three instances.

Mr. TEAGUE.

Mr. MAZZOLI in two instances.

Mr. WOLFF.

Mr. SANTINI.

Mr. AuCOIN in two instances.

Mr. RANGEL.

Mr. JAMES V. STANTON.

Mr. LONG of Maryland in 10 instances.

Mr. SOLARZ.
Mr. BRADEMAS in 10 instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. GINN.
Mr. BRODHEAD.
Mr. MCDONALD of Georgia in four instances.
Mr. PATTEN.
Mr. HARRINGTON.
Mr. MATSUNAGA.
Mr. HAYES of Indiana.
Mr. YATES.
Mr. FLOWERS in three instances.
Mrs. SCHROEDER.
Mr. HAMILTON.
Mr. EDWARDS of California.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 867. An act to amend the act entitled "An Act to establish the Fire Island National Seashore, and for other purposes," approved September 11, 1964 (78 Stat. 928); to the Committee on Interior and Insular Affairs.

S. 885. An act to designate certain lands in the Shenandoah National Park, Va., as wilderness; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. MAGUIRE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, April 9, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2990. A letter from the President of the United States, transmitting his objections to the Senate action adding to the budget for Foreign Military Sales credits and Security Supporting Assistance for the transition quarter for Israel, Egypt, Jordan, and Syria (H. Doc. No. 94–444); to the Committee on Appropriations and ordered to be printed.

2991. A letter from the President of the United States, transmitting proposed supplemental appropriations and budget amendments for the Department of the Interior and the Joint Federal-State Land Use Planning Commission for Alaska (H. Doc. No. 94–445); to the Committee on Appropriations and ordered to be printed.

2992. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report that no use was made of funds appropriated in the Defense Appropriation Act, 1976, or the Military Construction Appropriation Act, 1976, during the first half of fiscal year 1976, to make payments under contracts in a foreign country except where it was determined that the use of foreign currencies was not feasible, pursuant to sections 734 and 109 of the respective acts; to the Committee on Appropriations.

2993. A letter from the general counsel, Pennsylvania Avenue Development Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1975, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2994. A letter from the Administrator, Office of Federal Procurement Policy, Office of Management and Budget, Executive Office of the President, transmitting the Annual Report of the Office of Federal Procurement Policy for calendar year 1975, pursuant to section 8(a) of Public Law 93–400; to the Committee on Government Operations.

2995. A letter from the Chairman, National Park Foundation, transmitting the Annual Report of the Foundation for calendar year 1975, pursuant to section 10 of Public Law 90–209; to the Committee on Interior and Insular Affairs.

2996. A letter from the Secretary of Commerce, transmitting the Annual Report of the Economic Development Administration for fiscal year 1975, pursuant to section 707 of Public Law 89–136; to the Committee on Public Works and Transportation.

2997. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize loan funds for the Government of the Virgin Islands and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Ways and Means.

2998. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's comments on H.R. 12048, a bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation by creating procedures for congressional review of agency rules, and for other purposes, pursuant to section 27 (k) (2) of Public Law 92–573; jointly, to the Committees on the Judiciary, and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 1 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOWERS: Committee on the Judiciary. H.R. 11656. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; with amendment (Rept. No. 94–880, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13069. A bill to extend and increase the authorization for making loans to the unemployment fund of the Virgin Islands. (Rept. No. 94–1018). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 12987. A bill to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes; with amendment (Rept. No. 94–1019). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12725. A bill to amend the Internal Revenue Code of 1954 to permit tax-free rollovers of distributions from employee retirement plans in the event of plan termination; with amendment (Rept. No. 94–1020). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12234. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the Act of October 15, 1966, to establish a program for the preservation of additional historic properties throughout the Nation, as amended, and for other purposes (Rept. No. 94–1021). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 644 (Rept. No. 94–1022). Ordered to be printed.

Mr. TEAGUE: Committee on Science and Technology. H.R. 12704. A bill to authorize appropriations for environmental research, development, and demonstration; with amendment (Rept. No. 94–1023). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUMAN (for himself, Mr. HILLIS, and Mr. FINDLEY):

H.R. 13115. A bill to suspend until January 3, 1980, a portion of the duties on strontium nitrate; to the Committee on Ways and Means.

By Mr. BRINKLEY (for himself, Mr. WON PAT, Mr. SPENCE, Mr. ICHORD, Mr. MOLLOHAN, Mr. BENNETT, Mr. MONTGOMERY, Mr. FLYNT, Mr. GINN, Mr. YOUNG of Georgia, Mr. MATHIS, Mr. BEVILL, Mr. HUGHES, Mr. MAZZOLI, Ms. KEYS, Mr. KINDNESS, Mr. HYDE, Mr. OBERSTAR, Mr. ROE, Mr. COCHRAN, Mr. MURPHY of Illinois, Mr. DERRICK, Mr. FLORIO, Mr. PATTEN, and Mrs. LLOYD of Tennessee):

H.R. 13116. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. BRINKLEY (for himself, Mr. BOWEN, Mr. BEDELL, Mrs. MEYNER, Mr. ANDREWS of North Dakota, Mr. MYERS of Indiana, Mr. RAILSBACK, Mr. ABDNOR, Mr. MCCLORY, Mr. FUQUA, Mr. PATTERSON of California, and Mr. SYMINGTON):

H.R. 13117. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. CARTER:

H.R. 13118. A bill to amend the Public Health Service to advance a national attack on digestive diseases; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT (for himself and Mr. CARNEY):

H.R. 13119. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DEVINE:

H.R. 13120. A bill to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information; to the Committee on the Judiciary.

By Mr. DIGGS (for himself and Mr. GUDE):

H.R. 13121. A bill to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia

to be responsible for preparation and publication of such code thereafter; to the Committee on the District of Columbia.

By Ms. HOLTZMAN:

H.R. 13122. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to increase assistance to the States for accelerating the disposition of criminal cases and for combating juvenile crime, and for other purposes; to the Committee on the Judiciary.

By Mr. JONES of Alabama (for himself, Mr. CHAPPELL, Mr. DENT, Mr. DIGGS, Mr. EDWARDS of California, Mr. FISH, Mr. MCHUGH, Ms. MINK, Mr. MITCHELL of Maryland, Mr. MOLLOHAN, Mr. NATCHER, Mr. NEDZI, Mr. NOLAN, Mr. O'HARA, Mr. ALEXANDER, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PEPPER, Mr. PERKINS, Mr. PRICE, Mr. ROSTENKOWSKI, Mr. RYAN, Mr. ST GERMAIN, Mr. STARK, and Mr. UDALL):

H.R. 13123. A bill to authorize a local public works capital development and investment program; to the Committee on Public Works and Transportation.

By Mr. JONES of Alabama (for himself, Mr. HARSHA, Mr. STAGGERS, and Mr. DEVINE) (by request):

H.R. 13124. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. KOCH (for himself, Mr. GAYDOS, Mr. HANLEY, Mr. HEINZ, Mr. HELSTOSKI, Mr. HOWARD, Mr. HUNGATE, Mr. LENT, Mr. MACDONALD of Massachusetts, Mr. MIKVA, Mr. MILLER of California, Mr. MOAKLEY, Mr. NEAL, and Mr. SARBANES):

H.R. 13125. A bill to amend the Export Administration Act of 1969 to strengthen the antiboycott provisions of such act, to amend the Securities Exchange Act of 1934 to enhance investor disclosure provisions of that act, and for other purposes; jointly to the Committees on International Relations and Interstate and Foreign Commerce.

By Mr. MAGUIRE (for himself, Mr. BADILLO, Mr. DOWNEY of New York, Mr. EILBERG, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. JENRETTE, Mr. NEDZI, Mr. NOLAN, Mr. OTTINGER, Mr. SCHEUER, Mr. TSONGAS, Mr. WAXMAN, and Mr. WHITE):

H.R. 13126. A bill to amend the Higher Education Act of 1965 to provide a system of reduced-interest loans to students in institutions of higher education, and to provide for a system of income-contingent repayment thereof, and for other purposes; to the Committee on Education and Labor.

By Mr. MAGUIRE (for himself, Mr. BEDELL, Mr. COHEN, Mr. CORNELL, Mr. D'AMOURS, Mr. DENT, Mr. EDGAR, Mr. FISH, Mr. FITHIAN, Mr. GILMAN, Mr. KASTENMEIER, Mr. LAFALCE, Mr. LEHMAN, Mr. LITTON, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. NIX, Mr. OTTINGER, Mr. RODINO, Mr. ROSENTHAL, Mr. SANTINI, and Mr. CHARLES WILSON of Texas):

H.R. 13127. A bill to amend the Internal Revenue Code of 1954 to allow individuals who have attained age 65 a nonrefundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay for their principal residences; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. GIBBONS, and Mr. RYAN):

H.R. 13128. A bill to abolish certain Federal regulatory agencies and to cause the self-destruct of certain Federal regulatory agencies or their successor agencies after a specified period of time, and for other purposes; jointly to the Committees on Government Operations and Rules.

By Mr. MOAKLEY:

H.R. 13129. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701–3795) to emphasize crime prevention as a major purpose of that title and to require that each comprehensive State plan include a program for the prevention of crime against the elderly; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 13130. A bill to establish an Executive Department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. RODINO:

H.R. 13131. A bill to amend the act commonly called the Clayton Act to provide for premerger notification and stay agreements; to the Committee on the Judiciary.

By Mr. SANTINI:

H.R. 13132. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the label on certain food products to disclose the total sugar content thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON (for himself, Mr. AMBRO, Mr. CARNEY, Mr. HELSTOSKI, Mr. SOLARZ, and Mrs. SPELLMAN):

H.R. 13133. A bill to preserve the public health, safety, and welfare by prohibiting the entrance into and operation within the United States of civil supersonic aircraft that do not meet appropriate noise standards; to the Committee on Public Works and Transportation.

By Mr. BENNETT (for himself, Mr. CARR, Mrs. LLOYD of Tennessee, Mr. BUCHANAN, Mr. MANN, Mrs. SPELLMAN, Mr. LONG of Maryland, Mr. FASCELL, and Mr. MCKINNEY):

H.R. 13134. A bill to amend title 18, United States Code, to provide that any parent who kidnaps his minor child shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both; to the Committee on the Judiciary.

By Mr. D'AMOURS:

H.R. 13135. A bill to clarify the status of certain waters in the State of New Hampshire for the purposes of the Federal Boat Safety Act of 1971; to the Committee on Merchant Marine and Fisheries.

By Mr. KARTH (for himself, Mr. OBERSTAR, Mr. BERGLAND, Mr. NOLAN, Mr. HAGEDORN, and Mr. FRENZEL):

H.R. 13136. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MCCLORY (for himself, Mr. ANDERSON of Illinois, Mr. CARTER, Mr. DEL CLAWSON, Mr. COLLINS of Texas, Mr. CONLAN, Mr. ENGLISH, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. MCCLOSKEY, Mr. MCDONALD of Georgia, Mr. MILFORD, Mr. MOLLOHAN, Mr. MOORHEAD of California, Mr. REES, Mr. ROYBAL, and Mr. WIGGINS):

H.R. 13137. A bill to amend the voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. LUNDINE, Mr. MCHUGH, and Mr. LENT):

H.R. 13138. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize States to acquire certain rail properties from the Consolidated Rail Corp., and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN (for himself, Mr. KREBS, and Mr. RODINO):

H.R. 13139. A bill to increase the aggregate authority for long-term direct loans to nonprofit sponsors for the construction of housing for the elderly and handicapped; to the Committee on Banking, Currency and Housing.

By Mrs. SPELLMAN (for herself, Ms. ABZUG, Mr. BADILLO, Mr. BROWN of California, Mr. BURKE of Massachusetts, Mr. DOWNEY of New York, Ms. HOLTZMAN, Mr. LONG of Maryland, Mr. PATTISON of New York, Mr. REIGLE, and Mr. RICHMOND):

H.R. 13140. A bill to establish as part of the outdoor recreation programs a program to permit certain residents to cultivate gardens on dormant Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. SPENCE (for himself, Mr. DAVIS, Mr. DU PONT, Mr. HALEY, Mr. MANN, Mr. MARTIN of North Carolina, Mr. NIX, Mr. PREYER, Mr. STEPHENS, Mr. TAYLOR of North Carolina, Mr. HOLLAND, Mr. DERRICK, and Mr. JENRETTE):

H.R. 13141. A bill to authorize the establishment of the Eutaw Springs National Battlefield Park in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS:

H.J. Res. 916. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. WINN (for himself, Mrs. LLOYD of Tennessee, Mr. SCHEUER, Mr. DOWNING of Virginia, Mr. JENRETTE, Mr. COLLINS of Texas, Mr. SEBELIUS, Mr. HEFNER, Mr. BAFALIS, Mr. HOLLAND, Mr. FREY, Mr. MOLLOHAN, Mr. BALDUS, Mr. LAFALCE, Mr. ALLEN, Mr. ROE, Mrs. MINK, Mr. STARK, Mr. VIGORITO, Mr. CONLAN, Mr. CLEVELAND, Mr. RODINO, and Mr. PATTERSON of California):

H.J. Res. 917. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as National Beta Sigma Phi Week; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY (for himself, Mr. ALEXANDER, Mr. ANDERSON of Illinois, Mr. BEARD of Rhode Island, Mr. ROBERT W. DANIEL, JR., Mr. HENDERSON, Mr. LONG of Louisiana, Mr. MADIGAN, Mr. MICHEL, and Mr. O'BRIEN):

H. Con. Res. 608. Concurrent resolution to protect European duties on oilseeds and oilseed meal; to the Committee on Ways and Means.

By Mr. NOWAK:

H. Con. Res. 609. Concurrent resolution indicating the sense of Congress that every person thoughout the world has the right to a nutritionally adequate diet; and that this country increase its assistance for self-help development among the world's poorest people until such assistance has reached the target of 1 percent of our total national production (GNP); jointly to the Committees on Agriculture, and International Relations.

By Mr. GILMAN (for himself, Mr. MCHUGH, Mr. MCDADE, and Mrs. Meyner):

H. Res. 1137. Resolution establishing a select committee of the United States House of Representatives to conduct an investigation into the management of water releases

by New York City from its reservoirs located in the Catskill Mountains into the Navesink-Delaware River System, and the environmental, health, and other impacts of such releases; to the Committee on Rules.

By Mr. JACOBS:

H. Res. 1138. Resolution to impeach certain U.S. Federal judges; to the Committee on the Judiciary.

By Mr. YATES (for himself and Mr. DUNCAN of Oregon):

H. Res. 1139. Resolution disapproving the deferral of budget authority relating to the Bureau of Land Management (deferral No. D76-102) which was transmitted to the Congress under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of April 7, 1976, page 9867:

H.R. 12649. March 18, 1976. Armed Services. Directs the Secretaries of the Army, the Air Force, and the Navy to prescribe duties to which women members of their departments may be assigned, and the military authority women members may exercise.

Prohibits the Secretaries of the Army, Navy, and Air Force from excluding women from combat duty, solely on the basis of sex.

H.R. 12650. March 18, 1976. Agriculture. Amends the Consolidated Farm and Rural Development Act to permit any person applying for assistance under such Act to employ a qualified attorney or title insurance company of such person's choice to perform services in connection with loans made or insured under such Act.

H.R. 12651. March 18, 1976. Science and Technology. Authorizes the Administrator of the Energy Research and Development Administration to offer financial assistance for the establishment of State energy research, development, and for specified institutes. Authorizes financial assistance for specified energy research projects of such institutes.

Directs the Administrator to establish a plan, subject to Congressional review, for the establishment of a Cooperative Energy Conservation Extension Service.

H.R. 12652. March 18, 1976. Agriculture. Establishes within the Department of Agriculture a Bureau of Agricultural Statistics to obtain information regarding the prices of food paid to producers and processors and the prices of food at the wholesale and retail level. Directs such Bureau to make recommendations for legislation to provide for lower retail prices of food when the price paid to the producer for the agricultural commodity from which the food is made is decreasing or remaining constant, and the retail price is increasing.

H.R. 12653. March 18, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 12654. March 18, 1976. Banking, Currency and Housing. Directs the Secretary of Housing and Urban Development to implement the program established by the Emergency Homeowners' Relief Act in standard metropolitan statistical areas which have high home mortgage foreclosure rates.

H.R. 12655. March 18, 1976. Agriculture. Amends the Agricultural Marketing Act of 1946 to repeal the revisions of the Official United States Standards with respect to the grading of carcass beef and slaughter cattle. Authorizes and directs the Secretary of Agriculture to promulgate regulations to establish different and nondeceptive grade designations and specifications for beef.

H.R. 12656. March 18, 1976. Rules. Requires under the Congressional Budget Act of 1974 that the Federal budget deficit for fiscal years 1977-1980 must be a specified decreasing percentage of the deficit for fiscal year 1976. States that beginning with fiscal year 1981 Congress may not consider a Federal budget which includes a deficit.

H.R. 12657. March 18, 1976. Education and Labor. Establishes regional employment councils to administer a program for individuals aged 40 or over who are unemployed or underemployed. Directs the Secretary of Labor to undertake a program of grants and contracts for research to develop data which will assist such individuals to enter, remain in, or advance in the labor force.

H.R. 12658. March 18, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

H.R. 12659. March 18, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

H.R. 12660. March 18, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize additional appropriations for preservation of outdoor recreation resources. Revises procedures for providing financial assistance to States.

Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from mining leases and leases on the Outer Continental Shelf.

H.R. 12661. March 18, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize additional appropriations for preservation of outdoor recreation resources. Revises procedures for providing financial assistance to States.

Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from mining leases and leaves on the Outer Continental Shelf.

H.R. 12662. March 18, 1976. Interior and Insular Affairs. Amends the Land and Water Conservation Fund Act of 1965 to authorize additional appropriations for preservation of outdoor recreation resources. Revises procedures for providing financial assistance to States.

Amends the National Historic Preservation Act of 1966 to establish a historic preservation fund from revenues collected from mining leases and leases on the Outer Continental Shelf.

H.R. 12663. March 18, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives.

Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations to their development and revision.

Revises provisions relation to the sale of timber found on National Forest Service lands.

H.R. 12664. March 18, 1976. Interstate and Foreign Commerce. Extends appropriations for emergency medical service systems under the Public Health Service Act. Authorizes the Secretary of Health, Education, and Welfare to conduct and support programs related to the treatment and rehabilitation of individuals injured by burns.

H.R. 12665. March 18, 1976. Post Office and Civil Service. Requires the United States Postal Service to consider specified factors in determining the need for an existing third- or fourth-class post office. Sets guidelines relating to such determinations.

H.R. 12666. March 18, 1976. Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 12667. March 18, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 12668. March 18, 1976. Judiciary. Amends the Legal Services Corporation Act to direct the Corporation to provide financial assistance to qualified programs designed to furnish legal assistance to eligible older persons in connection with any determination relating to eligibility or payment for home health services or specified health-related hearings under the Social Security Act.

H.R. 12669. March 18, 1976. Ways and Means. Amends the program of Grants to States for Social Services of the Social Security Act: (1) to authorize the payment of excess funds to States for programs aimed at preventing or reducing inappropriate institutional care by making home or community-based care available; (2) to specify the level of Federal support for multipurpose senior center programs; and (3) to require the standardization of eligibility requirements for Federal support to such programs.

H.R. 12670. March 18, 1976. Banking, Currency and Housing. Amends the National Housing Act to direct the Secretary of Housing and Urban Development to give special emphasis to insuring mortgages covering medical practice facilities which are primarily for the purpose of providing preventive, diagnostic, and treatment services to elderly outpatients.

Amends the Housing and Community Development Act of 1974 to direct the Secretary to insure mortgages made in connection with senior centers offering health, nutritional, educational, and social facilities to elderly persons, regardless of whether such centers offer housing facilities.

H.R. 12671. March 18, 1976. Ways and Means. Authorizes a tax deduction, under the Internal Revenue Code, for any taxpayer who contributes the right to use any real property owned by the taxpayer to a tax-exempt organization for use by a qualified senior citizen facility.

H.R. 12672. March 18, 1976. Education and Labor; Interstate and Foreign Commerce. Amends the Older Americans Act of 1965 to increase the amounts authorized to be appropriated in fiscal years 1976-1978 for purposes of informational exchange on the subject of retraining programs for older Americans. Allows the Secretary of Health, Education, and Welfare to make grants under such

Act to cover the cost of administering and operating multipurpose senior centers.

Declares it the sense of Congress that any Federal legislation establishing a national health insurance program should include specified provisions relating to the availability of home health services for older persons.

H.R. 12673. March 18, 1976. Appropriations. Appropriates a supplemental amount for carrying out the home health services provisions of the Health Revenue Sharing and Health Services Act. Appropriates specified sums for the purpose of making multipurpose senior center grants under the Older Americans Act of 1965.

H.R. 12674. March 18, 1976. Interstate and Foreign Commerce; Ways and Means. Amends the Social Security Act to prohibit nursing homes and skilled nursing facilities participating in the Medicare or Medicaid program from requiring patients to turn over their social security benefit checks after giving advance notice of their intent to leave such homes.

H.R. 12675. March 18, 1976. Interstate and Foreign Commerce. Amends the Health Revenue Sharing and Health Services Act and the Social Security Act to allow the Secretary of Health, Education, and Welfare to make grants and loans to fund home health services, annual health fairs, community care services, and mobile health facilities for the elderly. Expands the medical coverage of the Social Security Act to include preventive health care, diagnostic services, hearing aids, foot care, dental care, vision aids, and specified care and services for the elderly.

Amends the Public Health Service Act to require that $20,000,000 be obligated for grants and contracts for emergency medical services systems for the elderly.

H.R. 12676. March 18, 1976. Ways and Means: Interstate and Foreign Commerce. Amends the Medicare program of the Social Security Act: (1) to remove all limits on the number of home health visits for which payment will be made under such program; (2) to provide coverage for specified preventive health care services; (3) to extend coverage to outpatient rehabilitative services and services furnished in elderly day care centers; and (4) to extend the scope of professionals standards review organizations to health care facilities in addition to hospitals and to health professionals in addition to physicians.

H.R. 12677. March 18, 1976. Interstate and Foreign Commerce. Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to authorize the Secretary of Health, Education, and Welfare to designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism.

Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972 to require State alcohol and drug abuse programs, and the Secretary, to give special consideration to alcohol and drug abuse treatment and prevention for women and juveniles.

H.R. 12678. March 18, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to formulate plans and fund programs to promote health information, preventive health services, and education in the appropriate use of health care. Creates within the Department of Health, Education, and Welfare an Office of Health Information and Health Promotion. Directs the Office to establish a national clearinghouse to facilitate health information exchange.

Authorizes the Secretary to make grants to States and public and nonprofit private entities to support disease prevention and control programs.

H.R. 12679. March 18, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the appropriation of specified sums in fiscal year 1976–1979 for the purpose of continuing Federal assistance programs for health services research and statistics and Federal programs for assistance to medical libraries.

Directs the Secretary of Health, Education, and Welfare to use and permit use of Department resources, provide technical assistance and advice, make grants, and enter into contracts for the provision of health services research and health statistics training for the purpose of aiding federally funded projects for health research experiments.

SENATE—*Thursday, April 8, 1976*

The Senate met at 12 o'clock meridian and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

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

O Thou Changeless God of this changing age, to whom our prayers ascend each day, help us, in the stewardship of high office to separate the eternal from the temporal, the permanent from the tentative, the enduring from the perishing. Preserve us from doing hastily the wrong thing in the wrong way when study and patience and hard work may achieve the right thing in the right way. Show us how to move when the way is clear, to take the steps which can be taken, and to seek Thy light upon the unfinished task. To this end, we beseech Thee to guide the President, the legislative bodies, and all servants of the people to govern wisely for the well-being of the whole Nation, and for justice and peace in the world.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 8, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, April 7, 1976, be dispensed with.

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

AUTHORIZATION FOR COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services, the Committee on Public Works, the Committee on Labor and Public Welfare, the Committee on the Judiciary, the Committee on Commerce, and the Select Committee To Study Governmental Operations With Respect to Intelligence Activities be authorized to meet during the session of the Senate today.

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

Mr. MANSFIELD. I also ask unanimous consent that all other committees be authorized to meet until 1 p.m. or the end of morning business, whichever comes later.

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

DESIGNATING THE KAISER ROADLESS AREA IN CALIFORNIA FOR STUDY TO DETERMINE SUITABILITY FOR PRESERVATION AND WILDERNESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 700, S. 75.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 75) to study certain lands in the Sierra National Forest, California, for possible inclusion in the National Wilderness Preservation System.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill (S. 75) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act (78 Stat. 890, 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, certain lands in the Sierra National Forest, California, which comprise approximately twenty-eight thousand acres, and which are generally depicted on a map entitled "Kaiser Wilderness Study Area", dated February 1974. The Secretary shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall submit promptly thereafter to the United States Senate and House of Representatives his recommendations with

respect to the designation of such area or portion thereof as wilderness. Any recommendation of the President that such area or portion thereof shall be designated as wilderness and, therefore, as a component of the National Wilderness Preservation System shall become effective only if so provided by an Act of Congress.

SEC. 2. During the review period provided by this Act and for a period of four years after the recommendations of the President are submitted to the Congress, the Secretary of Agriculture shall manage and protect the resources of the lands depicted on such map in such a manner as to assure that their suitability for potential wilderness designation is not impaired.

SEC. 3. The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 4. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

MONTANA'S AD HOC COMMITTEE ON AGRICULTURE

Mr. MANSFIELD. Mr. President, as my colleagues in the Senate are fully aware, agriculture is a dominant industry in a good many Western States. Farmers and ranchers have their ups and downs. Perhaps one of the major contributors to this continuing change is the rugged independence of these individuals. In the last several years, there has been some indication that this segment of the economy is changing; and they recognize that if they are to establish a better future for themselves, they will have to organize in many areas. This has become quite apparent in Montana, with the formation of the Montana Ad Hoc Committee on Agriculture.

The farm writer for the Great Falls Tribune in Montana recently addressed this subject in a feature column. I ask unanimous consent to have the column of Dick Hansen, Jr., printed at this point in the RECORD.

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

MONTANA'S AD HOC COMMITTEE ON AGRICULTURE

(By Dick Hansen Jr.)

Unity in agriculture has long been the dream of many in agricultural circles. The word has many meanings—depending upon who is using it, and, the general acceptance of the word has never—nor probably ever will—characterize American agriculture.

But, there is in Montana, a unique organization called the Governor's Ad Hoc Committee on Agriculture. It has been meeting regularly in the state capitol—Helena, every other month for the past five years. This may not be unity, but it is perhaps the closest thing yet, and, as far as is known, it is the only group of its kind meeting regularly in the United States.

It is composed of every farm, ranch, and commodity group and organization in Montana. It was born with the single thought of providing producers of every state agricultural commodity the opportunity to seek answers and possible solutions to some of the problems they all had in common. It's not a public forum for any political party, or, any farm or ranch group.

Instead, it's an avenue where all farm organizations and their leaders can sit down and discuss at one table, the problems of Montana farmers and ranchers, and then return to their respective groups or organizations and take whatever action or position is best for their individual group.

Another prime goal of these bi-monthly meetings is education—being able to get top-notch speakers, and specialists in almost every agricultural field, and be able to ask questions and get information which may not be available otherwise.

These ad hoc meetings are public—anyone can attend. And more, can be heard by the committee if he, or she, so desires.

Despite the fact that the Ad Hoc Committee voted early this year to pursue complete unity in Montana agriculture—a vote that passed unanimously, not one dissenting voice—no one tries to pretend that each and every group or organization is in full agreement on everything. This would simply be a rubber-stamp farce.

Instead, they each try—with almost total success—to lay aside those policies and philosophys and diverse opinions—and concentrate instead on the areas of mutual concern. And, they have found more and more, that this is a vast area—one which leaves little time, or inclination, for petty bickering over differences.

Along with this, the committee has deliberately tried to maintain a low profile. Many Montana farmers and ranchers still have never heard about it. They rarely—if ever—make any state farm or ranch policy as such. But, through discussion, education, association, and study, they are each far better equipped to go back to their respective groups and suggest or inform members on positions, policy, issues, and problems.

And, quite often this turns out to be a unanimous stand by all, or the majority of the committee groups represented. When this is the case, as it has been a number of times in the past, there is tremendous clout when such a unified force wants something done—or corrected. And, the track record in this regard is outstanding also.

Moreover, they are finding that they can still remain individuals, while at the same time working hand in hand with each other in such things as agricultural research, education, taxation, transportation, marketing—and many more equally vital common areas.

So, while this may not represent the 'unity of agriculture' that many seek, for Montana agricultural producers, the Ad Hoc Committee is close enough—at least for now.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

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

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

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. James Hinish, of my staff, have the privilege of the floor this morning.

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

THE EFFECTS OF FEDERAL REGULATION ON ENERGY AND NATURAL RESOURCES

Mr. FANNIN. Mr. President, this morning we are going to have a discussion of the effects of Federal regulation on energy and natural resources. This is a continuation of several discussions we have had on the floor of the Senate by a large number of Senators. It is vital that we continue these discussions and that we rapidly develop legislation which will accomplish the objectives that I think are generally the feeling of the Members of this body.

Government overregulation of business has led to higher prices consumers must pay for goods and services they need. It has also been responsible for critical shortages in products that the public uses. Nowhere is the failure of Federal regulation more evident than in the field of energy.

Today, Mr. President, we are holding this colloquy—the fourth in this current series of discussions on matters affecting regulatory reform—to examine the effects of Government regulation on energy and natural resources.

Mr. President, the cost of environmental cleanup is a high one, in both economic and employment terms. We see this reflected in many ways throughout this Nation. Arizona's most recent example of this has been a controversy over pollution control of our copper smelters.

No one debates the desirability of clean air, nor the need to comply with regulations to achieve this objective. The debate centers over a lack of data by the Federal Government about what constitutes unhealthy levels of pollution and what is technically available or effective as a means by which to reach our environmental goals.

In the case of the copper smelters, emission control regulations were hastily written to meet the normal arbitrary deadlines. As a result, existing plans for a Colorado industry were used, with some modification but with an alarming lack of technical investigation for suitability to the smelter control problem. At the last report, the State of Arizona was still attempting to draft emission regulations that were technically attainable and satisfactory to the EPA.

I think we all recognize that there is no commonsense judgment in having regulations that cannot be achieved. When we do not have the technology available, we should not set standards that are not obtainable. Over the years, we have seen millions of dollars actually wasted because the standards that were set had unreasonable levels, levels that could not be achieved either economically or from a practical standpoint. The millions of dollars spent to achieve earlier, now obsolete, EPA demands will simply have to be absorbed by the copper industry, and eventually by consumers.

I ask unanimous consent that the article entitled "How EPA Bungled the Smelter Emission Rule," published in the November 12 issue of the Eastern Arizona Courier, be printed in the RECORD following these remarks.

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

(See exhibit 1.)

Mr. FANNIN. What is most infuriating about the copper smelter case is that it follows a long line of billion dollar bungles by the Environmental Protection Agency. We now are told catalytic converters, which remove hydrocarbons from automobile emissions, produce sulphate fumes which may be more injurious than the particulates they reduce.

But the alltime EPA horror story is the recently released information about Dr. John Finklea—positive confirmation of our fears that this Agency has not only acted incompetently in many respects, but has grossly distorted the medical facts to support conclusions the Agency was determined to make about hazardous emissions.

To share the full story of this fact juggling by EPA, I ask unanimous consent to have two articles from the Los Angeles Times printed in the RECORD. W. B. Rood's articles "EPA Study—The Findings Got Distorted" and "Billion Dollar Pollution Decisions Rest on Slim Data, Official Says" should make interesting reading for my colleagues who have experienced problems in their own States with ill-suited and unrealistic regulations by this Agency.

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

EPA STUDY—THE FINDINGS GOT DISTORTED

(By W. B. Rood)

Reports from a major Environmental Protection Agency research program were systematically distorted by a former agency scientist in an effort to prove that pollution from sulfur-bearing fuels had an adverse effect on human health.

This distortion, disclosed to The Times by both government and nongovernment scientists, has resulted in a mounting controversy over the need to spend billions in controlling sulfur pollution from electric power plants and raised questions about the credibility of EPA research.

While scientists are generally agreed that sulfur pollution at higher levels poses a health hazard, criticism of the distorted EPA research has raised serious questions over how low the harmful levels really are.

The EPA reports were prepared as part of the agency's Community Health and Environmental Surveillance System (CHESS) and published in 1974.

Extensive interviews with scientists and others have shown that:

Dr. John F. Finklea rewrote the work of agency scientists, often deleting what the researchers felt were important qualifiers on experimental results;

Finklea deleted material from the reports that did not show a connection between sulfur pollution and adverse health effects;

Finklea screened statistical analyses to downplay evidence tending to weaken or contradict the case against pollution; and

Finklea overrode agency scientists' objections to publishing estimates of the health impact of pollution which were either statistically dubious or unsupportable.

The consequences of these actions have far outstripped technical debate over one set of EPA studies:

Relying heavily on the disputed CHESS studies, EPA has called for controls on sulfur pollution that would cost power companies and ultimately American consumers billions of dollars.

Citing the CHESS evidence, the agency says many of the nation's power plants will not be able to switch to coal without heavy expenditures for pollution controls—costs industry spokesmen say undermine their efforts to shed dependence on foreign oil sources.

The agency's effort to defend the published CHESS studies has seriously delayed EPA's progress on new research and damaged morale among its scientists.

Evidence of bias in the CHESS studies has led to credibility problems for the agency's research arm and charges that EPA should not be entrusted with research in support of air pollution regulations.

The man whom numerous scientists within and without EPA blame for causing these problems resigned his post with the agency last year to become director of the National Institute for Occupational Safety and Health.

In answer to the charges against him, Finklea said in an interview that if air pollution researchers make mistakes, the mistakes should be in the direction of overestimating the health effects.

"I think the way we're sort of set up by law, we're supposed to give it the best professional shot we can," he said.

"But if we make a mistake it should be on that side."

Controversy over conclusions drawn in the EPA studies preceded their formal publication in May, 1974, in a monograph entitled "Health Consequences of Sulfur Oxides: A Report from CHESS, 1970–1971."

Written during the summer of 1972, the studies were circulated in draft form to scientists all over the world.

In a paper prepared for delivery at an October, 1973, National Academy of Sciences conference, two scientists—Dr. Ian T. T. Higgins of the University of Michigan and Dr. Benjamin G. Ferris Jr. of Harvard—wrote:

"It is particularly disquieting . . . that there has been a rather marked tendency to overinterpret the (CHESS) data and in particular to select findings which point to an effect of pollution on health and ignore those which do not."

Scientists were quickly joined in the fray by spokesmen for the electrical utilities, who were anxious to kill proposals for installing an estimated $11 billion in equipment for controlling sulfur oxide emissions from power plants.

Encouraged by the Nixon administration, the utilities were turning to coal in an effort to reduce their dependency on foreign oil sources.

Citing the CHESS studies as a basis for its action, EPA called for installation of costly devices termed scrubbers on 30% of the utility industry's projected coal-fired capacity by 1980.

And the industry fought back as it never had before.

American Electric Power Co.—operators of a largely coal-fired utility system serving seven states in the Midwest and Appalachia—launched a $3.1 million advertising campaign to turn public opinion against what the company called EPA's "unnecessarily restrictive regulations."

Other utilities began working through government channels to discredit the CHESS studies.

The Federal Energy Administration and the Federal Power Commission also joined in.

FEA hired its own consultants to critique the CHESS studies. The $38,000 FEA consultant study concluded that "the assumption (that) the health effects of sulfur-bearing air pollutants are largely due to the formation of sulfates, is theoretical."

Just before release of the FEA-sponsored report, the Federal Power Commission staff charged the EPA's air quality goals could result in critical power shortages.

The Office of Management and Budget—responsible to the President for watching the cost and efficiency of federal programs—was also asking questions about the CHESS program.

Faced with this barrage, EPA called for an internal review of the program. The task was assigned to the agency's Science Advisory Board, a panel of outside scientists reporting directly to the agency administrator.

The board appointed an ad hoc committee headed by Dr. James L. Whittenberger, chairman of Harvard's Kresge Center for Environmental Health, to conduct the CHESS review.

In what has become known as the Whittenberger report, the committee acknowledged that charges that "EPA scientists were 'over-interpreting their data,' that their conclusions were not supported by their data led to problems of credibility for the agency."

Although members of the committee now say they were told by EPA scientists that Dr. Finklea had distorted results of the study, the Whittenberger report did not reflect that finding.

"There was considerable feeling at various levels (in EPA) that indeed this was a correct observation, that indeed there was something of this nature happening," said Dr. George B. Hutchison, a Harvard scientist who served on the committee.

"I don't remember to what extent our report reflects this. Some of the earlier drafts reflect this more than the final report did. That's probably true. How we came to watering it down I don't really know."

Hutchison told The Times, "Yes, the finger was pointed very much at Dr. Finklea. This was rather clearly what the statisticians at Research Triangle Park (an EPA research facility in North Carolina) told us, that he was the bete noire of this difficulty and we in fact never had any evidence to the contrary.

"I guess the best guess is that he as an individual was more responsible than anyone else we know of."

Hutchison said the published CHESS studies were "systematically distorted in the direction of tending to demonstrate more association (between sulfur pollution and health) than in fact exists.

"If this sort of thing were happening nonsystematically, some of the studies exaggerating the relationships and others playing them down, then one might imagine that the thing sort of canceled itself out," he said.

"I don't think that. I think this sort of thing tended to be largely a systematic error in the direction of exaggerating the associations—making the pollutants seem more hazardous than the data supported."

The CHESS program was born of the best scientific intentions even before EPA was formed about five years ago.

Responding to calls for action from environmentalists, Congress was on the verge of enacting the Clean Air Act Amendments of 1970, the first legislation to put teeth in the nation's effort to clean up its air.

Air quality standards were to be set—to protect the health of the most sensitive segments of our population—with a margin of safety.

The CHESS program had three main objectives: to document the benefits of air pollution cleanup, to evaluate whether air quality standards set by EPA were adequate and to provide information for use in determining new standards.

To accomplish this, EPA scientists would eventually set up air monitoring stations in about 30 communities throughout the country.

Health information about residents in those communities, including seven in Southern California, would be collected using questionnaires. lung function tests and personal diaries kept by persons with heart and lung disease.

Data on levels of air pollutants would be correlated with health information in an effort to find cause-and-effect relationships.

What began as a relatively modest program with a budget of about $500,000 a year eventually become one of EPA's top research priorities with annual funding of about $5 million, according to Dr. Carl M. Shy, a former EPA scientist who helped organize CHESS.

"One of our big pushes in the CHESS program came when Jack Finklea got into the agency. He became head of the laboratory here (in North Carolina). He was an exceptionally good advocate and promoter of the CHESS program and was largely responsible for accelerating the development of it," said

Dr. Shy, who left EPA in 1973 to direct an environmental studies program at the University of North Carolina.

Dr. Finklea's capacity for working long hours amazed those who worked for him at Research Triangle Park where EPA has established the largest laboratory facility.

"He could work harder than any of us," said one scientist. "If he had an objective, we were never sure what that was, but he was going to accomplish it. That was the only thing consistent about him

"When he first came here the program had been floundering a lot more. He immediately gave us some projects to sink our teeth into and immediately that led to some publications."

Then came what EPA scientists in North Carolina call "the summer of '72."

CHESS had been under way for about two years. There had been a rash of technical problems—the kind painfully familiar to most who have conducted such studies:

—Air monitoring equipment had occasionally malfunctioned, resulting in the loss of some data;

—A spirometer used to measure the lung function of thousands of school children had proven unreliable and had to be replaced with another instrument;

—There were problems in keeping up with the massive flow of data that was coming into Research Triangle Park.

And while researchers in North Carolina were grappling with their problems, EPA headquarters in Washington had problems of its own.

Kennecott Copper Corp. in late 1971 had sued the agency in the first legal challenge of an air quality standard set by EPA under the Clean Air Act Amendments of 1970.

After hearing the corporation's arguments challenging the agency's standard for sulfur dioxide, a U.S. Court of Appeals judge on Feb. 18, 1972, ordered the EPA administrator to supply information to "enlighten the court" on the basis for the standard.

Standards come in pairs—primary standards, those to protect the public health with a margin of safety, and secondary standards, those to prevent damage to the public welfare such as injury to plant life.

Although Kennecott had challenged only the secondary sulfur dioxide standard, EPA decided to update the information in support of both standards, according to Finklea.

Among the areas chosen for study in the CHESS program was Utah's Salt Lake Basin. A major source of pollution in the area was a Kennecott smelter near Salt Lake City, and the smelter was the springboard for the company's concern over EPA's sulfur dioxide standard.

"At that time, we were told, 'You guys have got to go out and do something with no increase in budget and you've got to begin in six weeks," Finklea recalls.

Until the emergency that grew out of the Kennecott court case, EPA scientists had not viewed the portions of their studies dealing with sulfur oxides as having any greater priority than CHESS studies of other pollutants.

What ensued in the spring and summer of 1972 would have lasting impact on a young bureaucracy tasked with safeguarding the environment and on the people who were caught up in those events.

For instance, it would raise questions on whether an agency pressed in court to justify its regulatory actions could, at the same time conduct objective scientific research in support of those actions.

And it would leave lasting scars on the lives of scientists—those whose marriages were broken, whose careers were ruined. Some, they say, became psychotic, and some still sweat at the memory of turning out about 20 complex scientific papers in a matter of weeks.

"In the course of June, July and August of 1972, I'd estimate that Finklea probably worked on these studies an average of 16 hours a day," recalled one scientist.

"We were here more than one weekend, Saturdays and Sundays. Well, this had only occurred on isolated occasions before. Tempers got going. Dr. Finklea kept saying this had to get out for the good of the agency."

Another said, "We probably averaged working 100 hours a week, at least that long. He (Finklea) probably put in more time than I did.

"He would call me at eight o'clock on a Sunday morning and ask me where I was."

Against this backdrop, issues arose which scientists—some still with the agency and some who since have left—feel threatened to ruin their professional reputations.

Papers written by staff scientists were extensively rewritten in Finklea's office.

"The paper as it came out in (publication) did not resemble the first draft that we wrote, so whether or not you want to call it a rewrite or just a whole new paper . . . The papers were not recognizable from the point which we had originally written them," said one scientist.

There were cases in which Finklea went beyond revision of the drafts and ordered a new set of statistical analyses in an effort to establish a connection between sulfur pollution and health.

Health indicators such as chronic respiratory disease and asthma attacks were plotted graphically in relationship to pollution levels.

A statistical technique called multiple regression would then be performed with computers to show if there were significant relationships between pollution levels and health.

Statisticans involved in these analyses say that often Finklea would select for publication only the results "that supported the connection between pollution and adverse health."

A scientist recalled a study of persons with such diseases as asthma.

"In one particular study there were 248 regressions run and those cases which showed the desired adverse effects (on health) were selected and placed in the paper," he said.

"So it's not really the things that are in the papers," said a statistician. "He would come back and say let's do this and this and this and he would take what he wanted from it."

Asked if scientists protested, he said, "probably not strongly enough, but I got to the point where I said I'm not trying to interpret this stuff any more. I'm just going to do what you tell me."

Another statistical issue arose over the publication of what are called "hockey stick functions," so named because when they are plotted graphically the pattern resembles a hockey stick.

They are based on the theory that there is a pollution level below which a certain health effect is either nonexistent or nearly imperceptible and above which the health response rises sharply.

Publication of these functions in scientific papers attracts the sharpest scrutiny because such evidence can be used in setting air quality standards. As one EPA research administrator put it, "The lawyers in the agency are always saying, "Give us the number."

An extensive effort was made to discover such relationships in the CHESS data.

In each case, statisticians worked out what they called "confidence intervals" or tests by which they could judge the strength of relationships between given health effects and pollution levels.

One scientist involved in doing these analyses said there was often no statistical justification for saying any relationship existed.

Asked if the truth as he saw it was misrepresented in the papers, he said:

"I do believe that between the discussions and the selection of the data sets it did not represent the truth as I saw it as a statistician. I believe I was not the only one that perceived it in that manner."

At one point, "I practically broke down in tears once and I don't think I was the only one," the statistician recalled in describing attempts to confront Finklea with the issue.

Several of us sort of made an attempt to stand up to him, to disagree with him. Remember we were doing this at like eight o'clock at night since being up at six in the morning and we were kind of tired.

"What it would amount to is that his personality would just dominate you and there was just no. . ." He paused.

"So that I've forgotten how he did it but he had a way. To a couple of us he said, "If you don't want to do this just get out and we'll get it done without you.' That kind of an effect.

"You'd already sunk maybe as many hours in those few weeks as you had in the rest of the year altogether and it represented everything the whole lab had been doing."

Finklea himself says he was unaware of such intense dissatisfaction among his scientists at EPA.

"Well, you know I'm not talking to the individuals involved and I'd have to accept your judgment and appraisal of their responses there. I think a number of the drafts were not really responsive to the problems you had to deal with," he said.

"I think that I'd almost have to have all the series of drafts and lay them out for you. I think that many of them would not have been helpful to anybody looking at air pollution about anything, and if sensibilities were offended I could only apologize.

"I think we did press very hard in the time frame available. Maybe steamrolling is the correct word."

Shortly after that hectic period, Finklea was promoted from his position as head of the health effects research program to director of the entire EPA research center at Research Triangle Park.

He said that following his promotion the drafts of documents produced while he was head of the CHESS program were sent out for review by more than 100 scientists outside the agency.

And he contends that the scientists who wrote the CHESS reports were free to incorporate criticisms that came to the agency prior to final publication of the documents.

But some of the outside reviewers have reservations.

"They (EPA) got a lot of comments. They got some praise and a lot of kicks. But my feeling is that they didn't really respond very much to the criticisms at that time and many of the things that had been criticized in the draft are still in (the published monograph)," said D. R. Higgins of the University of Michigan. "This made some people unhappy."

The outside reviewers are not the only ones who are skeptical about Finklea's contention.

A former EPA official said, "Up to the moment he left (research center in 1975, about a year after publication of the monograph) he pulled the strings in that health effects laboratory. To say that the problems with those studies were corrected free of his influence is absolute nonsense."

Up until the time he left EPA and since, Finklea has repeatedly cited the published CHESS studies on sulfur oxide pollution in congressional testimony and in research papers.

In a paper bearing his name as the lead author and released just prior to his departure from EPA, Finklea cited the CHESS studies as evidence that sulfur oxides could be responsible for "thousands of premature deaths, millions of days of illness among susceptible segments of the population, hun-

dreds of thousands of needless acute lower respiratory illnesses in otherwise healthy children and hundreds of thousands of chronic respiratory disorders among adults."

Statements such as these have rankled many scientists, among them those still working with EPA at Research Triangle Park with masses of CHESS data yet to be reported.

"After things were (published) what happened is that Finklea moved up and people were sort of left defending what was done . . . We didn't think it was a scientific document most of us wanted to defend," said one EPA scientist.

Finklea carried his case to contacts in Congress.

"I think Jack was concerned that his scientific findings wouldn't get the attention he thought they deserved," said a source close to the Senate subcommittee on environmental pollution, who said he developed "a relatively unique relationship with Finklea."

The result was that, even before the sulfur oxides papers had been published, the CHESS studies became a major bit of ammunition in the national debate over control of sulfur oxide emissions.

And when they were published, they became a controversy unto themselves.

"The very controversy around this caused much scrutiny. Look, full-page ads in the New York Times and the Washington Post by the electrical power companies attacking the sulfate, sulfur dioxide, sulfur oxides control policy of the agency, which were largely predicated on the CHESS monograph," said Dr. Knelson, who inherited the EPA program once under Finklea.

"I see this tremendous attack by industry. The Office of Management and Budget is responding to that by saying, gee, what did you guys do wrong, why is the CHESS program so controversial?

"This caused repeated review by outside experts and so forth. The review process itself brings the program to a halt, which is essentially what has happened."

The issue has placed EPA in an excruciating regulatory position.

The CHESS monograph cites sulfates as being the sulfur oxide most suspected of causing adverse health effects, yet EPA publicly says this finding needs further confirmation and, consequently, no air quality standard for sulfates can be set.

(Sulfates are a part of the sulfur oxides family and are produced in the atmosphere by a complex series of reactions from sulfur dioxide—the major sulfur pollutant emitted during fossil fuel combustion.)

There are however, air quality standards for sulfur dioxide. The generators of electrical power say they can meet these standards by what they call intermittent control strategies—such things as tall power plant stacks and switching to cleaner-burning fuels when sulfur dioxide exceeds allowed levels around the plants.

EPA argues this is not enough. The agency points to evidence that tall stacks loft sulfur dioxide over the area immediately surrounding power plants—that this pollutant is transported downwind and converts to sulfates as it goes.

And the agency contends that these sulfates exist for days in the atmosphere, traveling perhaps hundreds of miles from their source.

Thus, the great debate over sulfates and CHESS. Sulfate discharges over urban areas have already reached concentrations the published CHESS papers indicate are harmful to health.

So while the agency says it doesn't know enough to set a firm standard for sulfates, it has said there is sufficient information to believe existing sulfate levels pose "significant risk."

On these words, "significant risk", hinges EPA's decision to call for control strategies that industry says will cost billions of dollars.

Federal law allows the agency to require emission controls on power plants converting to coal under certain conditions if they will produce pollutants for which there is at present no air quality standard—pollutants which pose a significant risk to health.

The agency has chosen to apply this "significant risk" provision only to sulfates "based on currently available health effects information," including CHESS.

At the same time, EPA has declared that it will take three to five years before research can provide the information needed to decide on an air quality standard for sulfates.

To date, EPA has published only the fulfur oxides information from CHESS studies conducted during 1970 and 1971.

Meanwhile, according to agency scientists, billions of bits of additional data have been collected—far more than served as a basis for the published monographs.

Those who have looked at preliminary reports based on the unpublished data say they contradict conclusions drawn in the published studies done during the summer of 1972.

Dr. Stanley M. Greenfield, former EPA assistant administrator and now president of a consulting firm, has been retained by the Electric Power Research Institute—an industry group.

As part of an effort to help build a research program for the institute, Greenfield is examining the CHESS studies.

"We have found definite contradictions between the published studies and those based on data from later years," he said.

He cited a study of elderly cardio-pulmonary patients in three communities in the New York City metropolitan area.

In the published studies, Greenfield said, average daily percentages of patients reporting shortness of breath were 6.7%, 25% and 30%.

A draft report of data from the following two years noted that the percentages for the three communities had dropped to 6.3%, 5% and 2%. However, Greenfield said, there was no corresponding drop in concentrations of sulfate in the three communities, which the published study linked to shortness of breath.

So the controversy over CHESS rages on even after collection of data under the program has been halted by EPA.

The man who is currently overseeing analysis of the remaining mound of data explained what it has all meant to him and to his research program.

"First of all let me say I believe the weight of evidence does indicate that, if there was not conscious overinterpretation, at least there was some selective inclusion of conclusions in the (published CHESS) report.

"What that has meant to me is that I've had one hell of a time convincing the country, if you will, that this kind of a program can be conducted to the benefit of everybody, including industry.

"It *has made my job very difficult. It's* made me discouraged to the point of despairing that I'll ever be successful in continuing the kind of studies that are indispensable to establishing a reasonable control strategy for the country."

BILLION-DOLLAR POLLUTION DECISIONS REST ON SLIM DATA, OFFICIAL SAYS

(By W. R. Rood)

"We are making multibillion dollar decisions about controlling air pollution on a 25-cent data base."

That statement comes not from a disgruntled industrialist but from Dr. John Knelson, the man who heads the laboratory set up by the Environmental Protection Agency to determine the links between air pollution and public health.

And laboratories are where the action is in air pollution—or at least where people like Knelson think it should be—at a time when the issue has evolved from one that drew thousands of marchers into the streets to one debated in the halls of science.

To be sure, the financial stakes are still high enough, the exchange between industry and the environmentalists still hot enough, that politicians still feel drawn to the issue.

The scientists have become the darlings of the day—wooed by industry whose executives are realizing that fist banging hasn't worked, and by government officials whose policies are being subjected to increasingly sophisticated scrutiny.

Even the environmental groups have their share of Ph.D's.

In the middle are the government scientists—doing research of their own and evaluating that of others to find a sound basis for some of the most costly regulatory decisions the country has ever made.

"You can decide that an energy policy predicated on public health, or an air-pollution control strategy that costs money and is predicated on public health is justifiable, and be wrong, be wrong in the direction of overcontrolling or controlling the wrong thing," said Knelson.

"That is why you don't wager billions of dollars in a time of financial difficulty like we're in now on almost no information.

"We are overcontrolling. That's a possibility. In the absence of information, legitimately, environmentally concerned people have a tendency to err in the direction of safety, which is right. The prudent man hedges his bet and says, "If it could be bad for me, I better watch out and control.'"

But even prudent people are scratching for rent money these days, and air-pollution scientists are under increasing pressure to come up with more exact information.

It's gotten to be almost an annual event for Congress to ask the National Academy of Sciences for a report examining the scientific basis for national air quality standards.

And the academy's replies, year after year, vary on the theme that there are great gaps in our knowledge about the effects of air pollution on health, but based on the incomplete information the standards should be left alone.

The problem, according to those controlling air pollution, is that the law doesn't allow for ignorance. The Clean Air Act says standards should be set to protect the most sensitive segments of the population with a margin of safety.

Even some scientists who help prepare the national academy's replies to Congress are having their doubts about the legal foundations for air-pollution control.

"I think that the problem with the legislation on these matters is that it says the standards ought to be set up to protect everybody. That's a physical impossibility," said Dr. Benjamin G. Ferris, a Harvard scientist.

"I think that's a lot of window dressing to say we're thinking of the smallest sparrow, which you probably don't do. Because if you're going to adhere to that you ought to set the (pollution) levels at zero. You'll always find a sensitive bloke who will flip out on you."

The problem, according to the scientists, is that we don't have the scientific basis for clearly defining the risks and the benefits.

The prevailing sentiment among many air-pollution researchers interviewed by The Times is not that we should begin tampering with existing standards.

Rather, they say, a nation demanding adequate controls on air pollution should give its scientists the resources to determine a rational basis for those controls—something besides what EPA's Knelson calls the 25-cent data base.

When EPA's Office of Research and Development was formed along with the agency more than five years ago, agency officials expected it to contain 6,000 persons by 1975.

Most recent figures show that there are

1,999 persons in the office, and Dr. Wilson Talley, assistant EPA administrator for research and development, has been told that he must cut that number by 250 before the close of the fiscal year.

The reason for the cut is personnel ceilings imposed on the agency by the Office of Management and Budget as part of the Ford Administration's program for cutting the size of the federal bureaucracy.

"It will mean sloppy work and slipped deadlines," said Talley.

There are other problems that would make it difficult for the agency to overcome its research problems even without personnel ceilings.

One is the effect of a decision to cut federal funding for the training of research physicians.

Five years ago, EPA's health efforts research program included 25 physicians. Today there are none.

EPA also has trouble holding onto its physician-researchers.

Dr. Carl M. Shy, a physician who resigned from the health effects program, described the problem this way.

"You get fed up with the fact that you set up a research program with a set of objectives and find yourself constantly being torn away from it to other issues," said Shy.

"Within the federal government, the reward is not so much for great scientific work as for good administration."

Shy said he was a casualty of that system.

"I think I looked down the road and said I've been here six years. Do I want another six years of this? What are my alternatives? I looked at the alternatives and came to the university where there isn't the kind of tearing apart you get in the agency."

The agency's answer to its manpower problems has been money.

"We get plenty of money but no new positions," explained one agency official.

To a large extent, the agency's Office of Research and Development spends much of its effort finding others who can use the money.

"The research has tripled since 1960 and there are fewer people doing research. It's doubled in the last two or three years, and there are fewer people in the Office of Research and Development to do it," said Talley.

"We've gotten ourselves into a mode where, out of a quarter of a billion dollars, we only spend about $70 million in-house for our own people, and all the rest is transferred to other governmental agencies, to universities, to nonprofit organizations."

Agency scientists complain that farming out research to contractors hasn't worked.

"Legally, under federal regulations for administering contracts, you cannot tell a contractor's employees what to do. This severely inhibits our capabilities for doing high-quality work," said one air-pollution researcher.

While the agency is grappling with these administrative headaches, outsiders are beginning to ask whether EPA should even be in the research business and, if so, to what extent.

For instance, there is a growing feeling that for a regulatory agency to be doing its own research is a conflict of interest.

The conflict lies between the regulators, who run the agency, and the scientists who work for them.

"My feeling is that a regulatory agency, especially a young one like EPA, is anxious to justify its existence by regulating," Shy said.

"The agency wants to regulate, let's say, on less than complete evidence, because the people who are doing the regulating are not scientists. They're lawyers and engineers, and they don't understand the complexities of these kinds of studies—the fact that a study doesn't give black and white results."

The very nature of EPA's mission, some say, creates pressure for agency scientists to stretch their results in proving the connection between human health and pollution.

Such charges have prompted the agency to form panels of outside scientists to review EPA research.

One of these scientists, Dr. Ian Higgins of the University of Michigan, discussed the problem as he saw it illustrated in EPA research.

"I think (EPA scientists) were determined to get things out somehow and maybe looked upon their mission as primarily to reduce air pollution and obviously under those terms one goes into the game with a certain inherent bias," he said.

"If I looked upon my task in life as reducing air pollution, I would certainly concentrate on those cases where pollution seemed to be doing harm.

"I don't see how you can expect otherwise and I think many people have felt it was a mistake for the regulatory agency to be concerned with the collection of data which would provide the scientific background for regulating the air pollution."

Issues such as these are under study by a National Academy of Sciences task force. The study was initiated in 1974 with a $5 million congressional appropriation and is scheduled for publication in June, 1977.

Among other things, an academy spokesman said, the study will explore whether an agency such as EPA would "have the courage to initiate an experiment that would invalidate its standards."

There are stirrings in Congress as well. Several committees have been asking questions about the conflict between the agency's regulatory and research arms.

"We're concerned," said one congressional source, "because the research hasn't been adequate to date. Since they haven't been doing the job that everyone, themselves included, thinks should be getting done, we have to ask why."

Mr. FANNIN. The cost to our Nation of the EPA's unscientific approach to pollution control is too large to even be computed, but we can be sure that these maneuverings have contributed significantly to the increasing materials shortage and continuing unemployment problem.

Mr. President, my State of Arizona happens to have mined approximately 50 percent or more of the copper produced in the United States. In fact, it has gone up this year, 1975, and is even above the figures that were very striking in prior years. So this is of great concern to the Members of our delegation from Arizona and, of course, should be of great concern to all of the people of this Nation and especially to Members of Congress. If we continue to cut down on our production of copper—and certainly, we are restricting the ability of my State of Arizona to produce the copper that we know we shall need in the future by having unrealistic regulations such as have gone into effect. They certainly should be changed if we are to go forward with the programs that are necessary, from the standpoint of our needs here of the domestic industry commercially, and also from the standpoint of the preservation of the defense posture of this Nation. Copper plays a very important part in this development, so we must take that into consideration.

When we talk about examples that are happening around the country, they certainly are adversely affecting what we can do both from the standpoint of the production of metals and the production of other materials, and we must look at the reason for this.

FEDERAL POWER COMMISSION

Other striking examples of adverse impacts of regulation in the energy and environment area have stemmed from Federal Power Commission—FPC—jurisdiction over natural gas prices. This has been conducive to delay, uncertainty, and distortions between the prices of natural gas produced for sale in interstate versus intrastate markets, and between the price of natural gas and that of other fuels. The result has been increasing shortages of natural gas and a widening gap between supply and demand.

I reiterate the importance of this particular subject because I feel it is absolutely essential that we take action during this session of Congress. Certainly, we should take action in the next few weeks, and I hope we will.

Additional Federal Power Commission regulations established curtailment priorities would have been unnecessary, if natural gas prices had not been so constrained.

Natural gas regulation has been counterproductive from the start. To trace a little history of it, in 1954, the Supreme Court, in the Phillips case,[1] held that the FPC had the authority to regulate the wellhead price at which natural gas producers sell gas to interstate pipeline companies.

The problems of implementing this decision became immediately apparent. The initial method of regulation involved a case-by-case, cost-of-service approach with thousands of gas producers filing rates with the FPC. This led to a situation which was described as "without question the outstanding example in the Federal Government of the breakdown of the administrative process."[2] The Federal Power Commission itself agreed that—

> Producers of natural gas cannot by any stretch of the imagination be classified as traditional public utilities. The traditional . . . method of regulating utilities is not a sensible or even a workable method of fixing the rates of independent producers of natural gas."[3]

The FPC went on to say that even if its staff were tripled, the case-by-case approach would not result in the FPC eliminating its backlog until the year 2043. At the time of President Kennedy's special message on regulatory agencies shortly after he came to office in 1961, there was already an FPC backlog of 4,000 gas rate increases.

The distinguished Senator from New Mexico, a producing State, is very familiar with what this has done in the development of these natural resources. Certainly, it has been of great concern to all of us. I happen not to be from a producing State, but certainly, it has

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[1] Phillips Petroluem Co. vs. Wisconsin—1954.

[2] James Landis—Report on Regulatory Agencies to the President-elect—1960.

[3] Cited in "The Regulators"—Louis Kohlmeier 1969 (Page 195).

been suffering from not having this development.

After the failure of the case-by-case approach, the FPC instituted a national area rate approach dividing the county into 23 different geographic areas, within each of which gas producers would have identical prices. Establishing the area rates was an incredibly lengthy process. The first Permian Basin area rate case, which established ceiling prices for natural gas within one of the larger natural gas producing areas and which also created a two-tier pricing system by making a distinction between "old" and "new" gas, took 7 years to conclude. The proceeding was begun in 1961, completed in 1965 and finally affirmed by the Supreme Court in 1968. This pattern was repeated in other areas with the Hugoton-Anadarko case taking from 1963 to 1971, the first and second southern Louisiana cases taking from 1961 to 1974, and so on. The results have been evident, lengthy delay and persisting uncertainty over prices.

The FPC recognized many of these problems and developed a number of proposals to modify the basic system. These included instituting area rates by rulemaking process, issuing limited term certificates with pregranted abandonment to enable interstate pipelines to obtain additional supplies for emergency needs, and establishing an optional pricing procedure. These attempts to expedite ratemaking and to raise prices have themselves taken time. For instance, it has taken almost 2 years for the FPC to issue an opinion in the Rocky Mountain area rate case. When an FPC decision has been made, it has inevitably been subject to lengthy judicial challenge.

Price uncertainty has been compounded by the possibility that natural gas prices may actually be lowered by the FPC from previously approved rates. For example, the southern Louisiana guideline rate was progressively reduced from 1960 through 1968.[4]

These examples reflect the difficulty of establishing rates through the regulatory process. The results have inevitably been arbitrary. Natural gas exploration and production is a high-risk, high-cost venture, and there is no clear relationship between costs and returns. The averaging of costs is not easy. Another problem for the regulators is the allocation of joint costs, when natural gas is produced in association with other hydrocarbons. Finally, as one observer has pointed out—

> Cost-price circularity is built into the regulatory system. Price ceilings limit exploration to those reserves the producer believes can be economically developed in the future. To the extent that price ceilings remain low, and to the extent these price ceilings influence drilling, only low-cost reserves will be developed. Accordingly, price ceilings based on cost will remain low—since only low-cost wells were drilled because of anticipated low-price ceilings. . . ."[5]

Let us briefly look at the impacts of this regulation. Production costs have risen faster than average prices. There have been inadequate incentives to produce new gas, and a decline in exploratory efforts has occurred. For the first time in 1968, production exceeded gross additions to proved reserves. The reserves-to-production ratio has since been in consistent decline. While supply is inhibited, demand has been artificially stimulated. The value of clean-burning natural gas has been kept low, relative to other fuels. Curtailments of natural gas deliveries to firm, and not just to interruptible customers have increased dramatically in volume.

As supplies decline and curtailments increase, energy users are forced to shift to higher cost supplies. As pipeline deliveries and operating load factors drop, the unit cost of service increases. Those unable to convert to other fuels or to purchase sufficient supplies are forced to shut down operations. Use of dirtier fuels requires investment in costly environmental protection equipment.

Clearly, legislation to alleviate this regulatory nightmare is urgently needed.

FEDERAL ENERGY ADMINISTRATION

The complexity and growth of an agency's regulatory functions is well illustrated in the case of the Federal Energy Administration, FEA. FEA already has 3,400 employees and a budget of $142 million which is expected to eventually triple to $440 million. 1,300 FEA employees are engaged in oil industry regulation, and that number is predicted to increase to 1,900 during the course of this year. It has been estimated that industry responses to FEA-required reports now total 2 million pages.[6]

The experience of an individual company with FEA regulation is exemplified by the Shell Oil Co. Shell estimates that it spends over $10 million a year to prepare and submit reports to the FEA. This involves over 80,000 man-days of work.

Shell cites one specific example involving excessive paper work: The FEA's proposed Petroleum Company Financial Report. It would require substantial detail, far exceeding the analytical needs of the FEA and in fact entails the development of a new complex data system to obtain information for which Shell itself has little use or interest.

NUCLEAR REGULATORY ISSUES

Another case where the regulatory process is in urgent need of streamlining is the nuclear area. In the United States, it takes 8 to 10 years to plan and construct nuclear power stations, which compares to only 6 years in France and 4 to 5 years in Japan. Not long ago the Atomic Industrial Forum sponsored a study of the causes of nuclear powerplant delays.[7] One of the main results of this study was that changes imposed by modifications in licensing and regulatory requirements were cited as a cause of delay more frequently than any other factor. The study showed that these changes helped to delay 85 percent of the reactor plants under construction and were also the cause of the most time lost, 42 percent of the total 1,119 plant-months of delay experienced by the 46 plants.

Among the delay factors cited in the licensing area were the lack of definitive criteria and standards, excessive questions delving into unwarranted detail, and changes not warranted by safety or environmental factors or not justified by cost-benefit analysis. Among those mentioned in the environmental and safety areas were the indefiniteness of the impact of "as low as practicable limits" on permitted releases of radioactive effluents and off-site radiation exposures, and delays attributable to the retroactive necessity of providing against an assumed pipe break outside reactor containment.

The largest single cause of delay, however, was related to the impact of the Calvert Cliffs court decision[8] in which the Court of Appeals for the District of Columbia laid down quite rigorous procedural requirements to which the Atomic Energy Commission had to comply in connection with granting licenses for nuclear power stations.

Another related delay factor which was highlighted by the survey was the alleged disproportionate diversion of technical personnel to regulatory matters. Some of the survey respondents cited the diversion of engineering personnel to answering questions raised by the AEC regulatory staff, many of which were considered to bear no direct relationship to safety considerations. The manpower requirements to support the licensing effort were thus seen to be in direct competition with the engineering manpower required to meet the construction schedule. Technical personnel were also being diverted to the preparation of environmental impact statements, answering questions, and participating in follow-on hearings. One respondent claimed that this diversion of his most experienced manpower to regulatory matters was probably the most serious problem currently facing him.

The economic burden of delays in the licensing and operation of nuclear powerplants has also been addressed by the Southern California Edison Co. The additional cost of 1 day's delay in terms of replacement power—fuel oil—for the company's 1,100 megawatt San Onofre unit 2, has been estimated at $590,000. Depending on the capacity factor for the plant, the results would be additional fuel costs of around $100 to $200 million for a 1 year's delay.[9]

EXHIBIT 1

HOW EPA BUNGLED THE SMELTER EMISSION RULE

(EDITOR'S NOTE.—The following article is excerpted from the Oct. 27 issue of Pay Dirt, a monthly mining industry magazine based in Bisbee and edited by William C. Epler.

Since the article was written the EPA has

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[4] Patricia Starratt—"The Natural Gas Shortage and the Congress" (1974) page 31.

[5] Starrat op. cit. Page 34.

[6] These above figures are cited in a Wall Street Journal article "Getting Entrenched" of Tuesday March 9, 1976.

[7] Pursuant to a request from the President in November 1973. The results were based on replies from 37 utility owner-operators of nuclear power projects, 47 under construction and 48 awaiting construction permits.

[8] Calvert Cliffs coordinating Committee of U.S. Atomic Energy Commission.

[9] William Gould, Executive Vice President of S. California Edison Co. and Chairman of the Edison Electric Institute's Executive Advisory Committee on Nuclear Power.

said rules governing sulfuric acid mist emissions have been suspended. Problems in controlling the mist were discovered only last month. Gas pollution rules will go into effect in December, however. All Arizona smelters, with the possible exception of the Phelps Dodge unit at Douglas, are expected to be able to comply with those rules.)

The fracas over future of at least five of Arizona's seven copper smelters continues to bubble along—and chances are it is going to get even more active in the weeks and months ahead.

Developments of the past month include:

Phelps Dodge Corporation on October 17th filed a petition with the federal Environmental Protection Agency asking it to take another look at a regulation that the company, the industry and the state say makes it impossible for the five smelters to comply with air quality standards.

The petition mentioned above is an outgrowth of a fairy tale history of the promulgation of a federal and state regulation that almost defies belief.

The word is out that the long anticipated smelter control regulations from EPA have been completed and will soon be published in the Federal Register. It is believed these regulations will require positive emission control criteria that several smelters, now nearing completion of expensive projects to meet state air quality standards, will not be able to meet.

THE FAIRY TALE

As a result of information supplied by various parties, Bruce Scott, head of the State Bureau of Air Quality Control, called a special conference meeting held October 14th in Phoenix to consider a new crisis that has arisen.

Among those attending were representatives of Phelps Dodge, several officials from the EPA's state and San Francisco regional offices, officials of other companies with smelters, state health officials and others with an interest.

John F. Boland of Phoenix, an attorney for Phelps Dodge, explained that a regulation that threatens to close five smelters was written by two federal employees under pressure to produce something. As a result, they used a Colorado regulation without considering whether it was technically feasible. He said the two men had little to work with, but under a deadline imposed by the Clean Air Act, threw together some material and turned it in, without technical investigation.

In due course, the regulation was adopted by the EPA as an official criteria and subsequently it forced the state to also adopt it in order to qualify for general grant to help cover administrative costs of the state program.

The regulation in question places a limit on the amount of particulate matter a source of pollution can emit, using a table to determine the amount by weight.

Arizona adopted the table for an area including Gila, Pinal, Pima, Maricopa and Santa Cruz counties after EPA ruled the state's original table was not stringent enough.

While the regulation currently only affects those five counties, it is expected to be but a matter of time until federal regulations make it effective in all 14 Arizona counties, thereby affecting the Phelps Dodge smelters at Douglas in Cochise County and Morenci in Greenlee County.

Boland related that he went in search of the source of the regulation when it became apparent that none of the three Phelps Dodge smelters could meet it.

"After spending $32 million at Ajo, we were unable to comply," he said. "It was apparent that something was wrong with the numbers in the table."

Boland said he asked EPA's San Francisco office to furnish technical support for the regulation.

"The answer was, 'We don't have it, it came from the EPA office in Durham' (North Carolina)," said Boland. "So, we went to Durham and said, "Show Us'."

CARDBOARD BOXES

"They handed us two cardboard boxes full of material and said that was all they knew about it," Boland related.

In combing the contents of the boxes and talking with the two employees, Boland said he finally learned of the Colorado regulation.

If the Colorado regulation had been strictly adhered to, matters might not be so bad, he said, but EPA and then Arizona made revisions that made the regulations unbearable for smelters. Apparently all that has survived of the Colorado regulation are the numbers for weight of allowable emissions.

"EPA apparently decided to give a more generous limit for the small plant and then nail the big plant," said Boland. "There is no technical support for this and Colorado knew this."

The Colorado regulation calls for the table of limits to be applied to each unit of a source, Boland explained.

In the case of a smelter, there are three processes considered important for air pollution control. They are the roaster, the converters and the reverberatory furnace. A typical smelter may have one roaster, one furnace and several converters.

The Colorado regulation, as explained by Boland, would apply the table separately to the roaster, the furnace and each converter. When revised by EPA all converters were lumped together.

The problem is that the table works on a curve rather than a straight-line progression.

Thus, a higher degree of control is required of a large plant. For example, a small plant might have to control 60 percent while a larger plant using identical processes might have to control 75 percent.

"The bigger you are, you still get no more emissions than the people half your size," Boland said.

THE BIG PROBLEM

The main reason the smelters cannot comply with the regulation is because of a sulphuric acid mist, which is produced by the mixing of water vapor and sulphur oxides burned out of the ore or concentrate during smelting.

The mist is considered part of the particulate matter and its weight must be considered part of the allowable emissions. Precipitators installed in stacks are designed to handle solid particles, such as bits of dust and ash, and do not work on vapors.

Neither state nor industry officials felt the mist was a problem until Phelps Dodge did preliminary testing at its Douglas smelter last spring and discovered an amount of acid mist in the emissions that made it impossible to stay within the total weight limit.

At the Douglas smelter, the acid emission creates no health hazard because the smelter does not have an acid plant. When an acid plant is used to strip sulphides from stack gases, the gases from the smelter are diverted into the acid plant, where they are cooled and cleaned. After passing through the acid plant, the gases are discharged—cold—up the stacks.

Without an acid plant, gases are hot when they go up the stacks at Douglas. The hot air carries the acid mist high and away and while airborne the acid aerosols—so small hundreds could fit on the point of a pin—undergo chemical transformation and fall to earth as sulphates—excellent fertilizer for the surrounding countryside.

But when the gases go up the stack cold, under certain conditions chunks of dirt and liquid sulphuric acid are formed and fall back to earth shortly after leaving the stack.

As we understand it, this is what has happened several times at Asarco's smelter at Hayden, with extensive and expensive damage to automobiles parked in the area.

BETTER IN UTAH

At the October 14th conference, Kenneth H. Matheson, Jr., who recently came from Utah to Arizona to become general manager of Kennecott's Ray Mines Division, said Kennecott had challenged EPA on the table as it applied to Kennecott's smelter in Utah.

As a result of the challenge, Matheson said, "EPA has proposed a regulation in Utah that is much more lenient."

Matheson said he did not know exactly how much more lenient it was, but Boland interjected that it was 20 times more lenient.

Larry Bowerman of the San Francisco EPA office was asked if that was true, but he said he would not comment since the regulation came out of the Denver regional office of EPA and he was not familiar with it.

During the lengthy meeting, Bowerman and two other EPA officials repeatedly refused to comment on the regulation or Boland's story of tracking it down.

"We have a lawsuit pending," said Bowerman.

At the October 14th meeting, state and industry officials acknowledged that five smelters could not comply because of the mist. They are Phelps Dodge's smelters at Ajo, Douglas and Morenci; the Asarco smelter at Hayden, and the San Manuel smelter of Magma Copper Company.

The Inspiration Consolidated Copper Company smelter at Miami and the Kennecott smelter at Hayden have already complied. They happen to have used air pollution control measures that averted the possibility of the sulphur oxides and water vapor mixing.

At the conclusion of the meeting, Scott asked industry officials to submit data on their emissions and requested EPA to provide information on the proposed regulation in Utah.

Scott said an emergency state regulation could be adopted if that was the only way to avert a shutdown.

By state law, the smelters had five years in which to comply with air quality standards. That time runs out this winter.

PETITION IS FILED

In a petition filed October 17th by Boland for Phelps Dodge, the EPA was asked to look at the regulation it has substituted for the original regulation adopted by Arizona, to check the process weight table to see if the emission limitations established are suitable for use on the kind of gas stream in a copper smelter. It also asked the EPA to review the test method portion of its table, as the company believes it is not compatible.

Boland said that when Kennecott followed a similar procedure in EPA Region 8 for its Utah smelter the EPA responded favorably. He indicated he was hopeful Region 9 will respond in a similar manner.

The day after the October 14th conference in Phoenix, Senator Barry Goldwater (R-Ariz. sent a strongly-worded telegram to Russell Train, administrator of the EPA, demanding immediate revision of the regulation.

Goldwater accused the EPA of formulating the regulations haphazardly, without any supporting evidence that the standards could be met with available technology.

"Enforcement of present unreasonable standards will have disastrous effects on the economy of Arizona and will severely affect our nation's available supply of copper," his telegram stated.

He said the method used in developing the regulations appeared to be typical of many EPA actions.

"Obviously, such methods show a blatant lack of concern and the absence of technical knowledge necessary for the development of

regulations for the copper industry is crucial to our country and to the state of Arizona," Goldwater said.

Goldwater's action, although welcome, was a surprise to many in the industry for he has at times been quite critical of smelter smoke. It appears obvious the inept promulgation of the regulation struck him as being unfair to the industry and the state.

BAN ON CLOSED LOOP?

Hanging over the entire smelter situation, however, is a big, black cloud in the form of the momentarily-expected EPA Arizona Plan specifying how smelters in the state will be required to meet federal air quality standards. The long-anticipated plan is to replace the plan adopted by Arizona, which the EPA said two years ago was not acceptable to it.

One of the chief worries is that EPA will ban use of the closed-loop system after a number of copper smelter operators have based air pollution control plans around it and spent many millions of dollars to meet state air quality standards.

It is anticipated the EPA's plan will eventually require Arizona smelters to meet air quality standards by positive control methods, allowing the smelters to continue using the closed-loop system only until additional positive control technology is developed. This would require expenditure of additional millions of dollars and scrapping of the closed-loop systems on which many millions of dollars have already been spent.

If the ban comes to Arizona, as it has to Nevada, it is expected there will be a barrage of lawsuits that will undoubtedly keep the matter tied up in the courts for a long time, perhaps years.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. FANNIN. Mr. President, is there time allotted to another Senator this morning?

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

Mr. HANSEN. May I yield such time as the Senator may require?

Mr. FANNIN. That is all right.

Mr. MANSFIELD. Mr. President, at the conclusion of the remarks of the three Senators, there will be a morning hour, at which time the last Senator can pick up the time allocated.

Mr. FANNIN. I yield to the Senator from Wyoming. I shall complete my remarks later.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wyoming (Mr. HANSEN).

REGULATORY REFORM

Mr. HANSEN. Mr. President, I am pleased to have the opportunity to join with my distinguished colleague from Arizona in this colloquy this morning.

The U.S. citizen may not be getting all of the Government he is paying for and for that he should be thankful. But he is still getting a lot more than he needs or should be paying for.

And while we here in this august chamber talking of regulatory reform, committees of the Senate continue hearings on legislation which would further compound the problem.

A prime example is S. 1864, the Energy Information Act now before the Senate Interior Committee.

In a recent hearing on that bill I made the following statement:

In considering such a proposal as this, I would suggest that we most carefully examine what we already have in the way of an energy information system before we take even the first step in establishing a new one.

Since the Senate almost 5 years ago approved S. Res. 45, a Study of National Fuels and Energy Policy, most every member of this committee including its distinguished Chairman—has held up as a horrible example the multitude of federal agencies involved in energy policy and the need to consolidate the energy functions of these many agencies.

A careful reading of the questions sent to these and other agencies about the existing energy data system and the staff memorandum sent to Committee members might seem to imply that there are some weaknesses in the existing system and its administration by FEA.

The FEA Administrator will later testify and I have full confidence in his ability to answer the questions that were sent to him and his opinion of the need for another agency.

Mr. Chairman, I have been under the impression that both Congress and the Administration recognized the need to consolidate the functions of agencies of the Federal government rather than create new ones, especially a new one that would seem to be a duplication of what an agency created only two years ago is already doing.

I might suggest, as many already have, that too many other agencies are now involved in energy collection data. The logic of consolidating information in an already existing and apparently efficient data collection system in an agency that also has primary responsibility and need for its use seems obvious.

Mr. Chairman, while I realize that major oil companies and their obscene profits lack some credibility before some members of the committee, I would like to quote what one major company executive told a House appropriations subcommittee recently:

"At last count, in mid 1975, we were filing 409 reports to 45 different agencies. This excludes all tax reports to the IRS and the many state and local governments."

He estimated that his company uses the equivalent of 112 people at a cost of $3.5 million per year just to fill out the 409 forms. And, he said, "this represents the tip of the iceberg. It excludes the management judgment time devoted to planning and review of government regulation and the associated reporting."

Further, he said that when compliance activities performed for such agencies as the Environmental Protection Agency and the Transportation Department are considered "The manpower and cost increase five-fold."

Although he conceded that government needs to collect certain kinds of information, he said that it is now time for a "reassessment of the need for data already obtained by the government, and a more efficient gathering and use of only that information which is essential."

All or most of this applies to smaller companies as well.

Mr. Chairman, unlike General MacArthur's observation about old soldiers, we all know that old—or new—agencies not only never die but neither do they fade away. We may establish new ones but the old ones linger on.

I am anxious to hear what our distinguished witnesses have to say.

Let me add a few excerpts from some of the testimony:

Mason Willrich, professor of law, University of Virginia:

Whether legislator, executive, or judge, the government policy maker must necessarily make decisions in the face of more or less uncertainty about the present situation as well as the future. Information may be gathered and analyzed in order to reduce uncertainty, but the benefits of doing so should outweigh the costs. Moreover, in a society where private enterprise is intended to function in a market economy, government collection and dissemination of commercially valuable information from business firms may distort private incentives and reduce economic efficiency.

A future Arab oil embargo might create petroleum shortages in America that would prove to be administratively unmanageable and that could cause grave economic damage and social disorder in this country. However, these consequences will not result primarily from lack of energy information, but rather from lack of American political will to make the painful policy decisions necessary to keep the U.S. oil supply vulnerability at a manageable level.

This is a controversial issue that has been a continuing theme of the energy debate in the U.S. from the beginning of the energy crisis in the early 1970s. Is there a 'real' shortage of natural gas, or has the shortage been 'contrived' by the natural gas industry? With respect to natural gas supplies, the information problem is inextricably interwoven with the pricing issue.

There is a shortage of natural gas in the interstate markets at FPC regulated wellhead prices. More than two decades of FPC price regulation have built up large incentives to keep off the interstate markets any additional natural gas supplies that are discovered, and to minimize production rates from reserves dedicated to interstate commerce.

A producer's own reserve estimates, and especially the background data from which those estimates are derived, is information that a producer would jealously guard because of its economic value. The issue whether the FPC can publicly disclose such reserve data and background information obtained from natural gas producers is currently being litigated.

Conflicting information concerning natural gas availability is due in large part to uncertainty in the industry and conflict within the government itself concerning future natural gas pricing policy. In the face of present regulatory uncertainty, a natural gas producer has large incentives to withhold both information and as much gas as legally possible from the interstate market. To an outside observer, the primary difficulty would appear to be an inability of the federal government to develop a sufficient political consensus to make a policy decision. In the meantime, those engaged in the process seem to be manipulating the relevant information to suit their special interests.

The existing statutory authorities and the impact of the proposed Energy Information Act are considered in some detail in the appendix. Here I will only summarize some of the points which emerge from that analysis.

The FEA's authority to collect and verify information is very broad and generally appears to be adequate for energy policy analysis. Because legal authority exists does not mean however, that the FEA will use it effectively.

First, what is effective administration will be in itself a controversial issue. Some may favor a light regulatory touch while others may desire a heavy hand.

Furthermore, money and skilled personnel are as important as legal authority in implementing massive regulatory programs. This is especially true of compliance and enforcement activities. The information flow within a large oil company may be an impenetrable jungle for a small investigatory unit. In any event, the FEA now seems quite swamped with information from the energy industry.

The need for more extensive, reliable and credible information concerning our reserves,

production and use of energy, and of the giant corporations involved in the fuel cycles, is clear and unmistakable. Still, those goals may be achieved more effectively by leaving the data gathering function with those most involved in using the information. Credibility could be enhanced by expanding the scope and frequency of Congressional oversight, either through use of the Comptroller General or committee hearings. Finally, legislation clarifying and strengthening Congressional access to the information collected by those operationally-oriented agencies should insure that Congress has available the data it needs.

Simon D. Strauss, American Mining Congress:

The bill refers to the fact that in connection with energy data the government "relies too heavily on unverified information from industry sources." Does this imply that the government should itself collect information regarding production or consumption? Does this mean that government inspectors will be stationed at every coal mine, oil well, or natural gas well to make their own independent measurements of the flow of production? Are federal inspectors also to do their own reading of electric or gas meters for every residential and industrial user in order to determine consumption?

Frankly, the mining industry believes that ample information is already available. The problem of energy is known. Stated very simply, it is that this country secures a growing share of its energy requirements from imports of fuel from abroad. The import statistics of the Census Bureau give adequate information with regard to this dependence. If the Congress desires to check this growing dependence, it can do so by providing incentives—or at least eliminating roadblocks—for domestic sources. But for the last three years instead of incentives the energy industry has had a multiplication of disincentives. Congress needs to consider priorities.

Therefore the American Mining Congress respectfully urges that this bill not be enacted. If improvement in information on energy is required, either the General Accounting Office or the Office of Management and Budget should be asked by the Congress to survey the existing data, arrange for the elimination of unnecessary reports or the coordination of the desired reports. Then the Congress can make its choices between greater energy self-sufficiency and some of the other objectives which have caused the failure to expand domestic supply.

Allen C. Sheldon, Aluminum Co. of America:

A great deal of thought went into establishing this energy reporting system. Congress recognized its credibility and incorporated it in the Energy Policy and Conservation Act of 1975 (P.L. 94–163). The mandatory requirements of reporting programs as described under the law, are allowed to continue participating in the industrial energy conservation program on a voluntary basis. They are reporting regularly on their use and conservation of energy.

In writing P.L. 94–163 Congressional committees gave serious thought to the confidentiality of energy data. This law provides adequate safeguards against disclosure of trade secrets or of any information that might cause significant competitive damage.

The provisions of P.L. 94–163 should serve as a model for handling mandatory reporting and confidential data.

The reporting system under P.L. 94–163 is just getting off the ground. But, so far, it is working beautifully. Understandably, we are very reluctant to support any proposal that would superimpose a whole new data collecting operation. We need to give the present reporting system a chance to operate.

The Energy Information Bill would require far more data than would appear to be necessary for regulatory administration and for formulating energy policies. Company specific reporting by line of commerce, let alone by product, would result in an accounting nightmare. It may be possible to have line of commerce reporting from energy producing companies, but from energy-consuming companies it would be virtually impossible. The fungibility of energy makes it impossible to determine which energy source contributed to a given product line.

There are energy data collection systems currently operating in government and, to the best of our knowledge, they are operating satisfactorily. If the data is not being interpreted correctly or being conveyed adequately to Congress and the public, then action should be taken to correct the situation, rather than establish still anther data bank.

Earlier I mentioned that 10 major energy-consuming industries already are reporting energy data on a systematic basis to the Department of Commerce. That would be a logical place to consolidate federal energy data. A bureau—the Bureau of Census, for example—could help straighten out problems of redundancy, standardize definitions and expand its data gathering, but only to the extent necessary for regulatory administration and formulation of energy policies. The Bureau certainly would have a sensitivity for adequately protecting industry's proprietary rights. And, giving the responsibility to the Department of Commerce would eliminate the need for a new agency or even a new data gathering operation.

Carl H. Savit, Western Geophysical Co. of America:

S. 1864 says that we must, when requested by a government official, give our products to the government without compensation and then the government must, in turn, give them to the public. If our products had been automobiles, television sets, or even motion pictures, the 'prima facie' unconstitutionality of such a bill would have precluded its introduction. We can only assume that the proposal in S. 1864 to wipe out the billion dollar geophysical exploration industry by confiscating its entire output is the product of a lack of understanding.

If S. 1864 were to be enacted into law, the consequences would be far-reaching indeed. During the period between its enactment and the final determination of its unconstitutionality, tens of thousands of people employed in geophysical surveying in more than thirty states would be out of a job. Suppliers of equipment, instruments, and materials in all 50 states would lose part, or all, of their business. The hiatus in geophysical surveying would necessarily be followed by a nearly total cutback in oil and gas drilling and a virtual cessation of new oil and gas production. Overall, the loss of jobs would run into the hundreds of thousands, or possibly millions. We cannot believe this committee could desire such consequences.

The Federal Energy Administration itself is another example of the distortions and inefficiencies of Federal regulation. A recent Wall Street Journal editorial uses FEA, the Emergency Petroleum Allocation Act and the more recent so-called Energy Policy and Conservation Act as examples of the failure of government regulation to even approach the efficiencies of the free marketplace as an arbiter of price and supply.

The editorial began:

Gas pump roulette is a symptom of our disheveled economy; you drive into a filling station and it is only a guess how close the prices will be to the place down the road.

The game is a product of the U.S. government. For nearly three years now, it has been "allocating" oil products. This has created millions of man hours of work for lawyers. It also has damaged price competition and logistical efficiency in oil products marketing.

Now, it seems, we are promised an end to this monster. The Federal Energy Administration has a plan for removing price ceilings and allocations on oil products by the end of May. But that assumes that Congress and all the special interests who've learned to love controls will not find some way to scuttle it. And that is a very big if.

The Wall Street editorial concluded:

All these problems could have been avoided if President Ford had vetoed the December bill, padlocked the FEA, sent home its 112 press agents and 3,400 other paper shufflers, and decontrolled oil, including crude. But he didn't so it is not yet an airtight bet that gas pump roulette is finished.

Federal Power Commission regulation of the wellhead price of natural gas is the best proved example of the fallacy of Federal price control. When the Supreme Court gave the FPC the unwanted authority to say how much each gas producer in the United States could receive for gas sold to the interstate system, producers predicted the outcome. Overuse of our cleanest and most convenient fuel because of underpricing has resulted in shortages that can be made up now only by expensive and unreliable imported oil.

While prices paid to domestic producers of natural gas committed to the interstate system average about 35 cents per 1,000 cubic feet, uncontrolled intrastate prices in Texas, Oklahoma, and Louisiana where there is no shortage are as high as $2 per thousand cubic feet. But very little of the newly discovered gas in those States is being contracted to the interstate system.

The present ceiling price on newly discovered oil is $11.28 per barrel. On a Btu equivalency basis, gas would sell for about $2.13 per thousand cubic feet.

At 35 cents the Btu oil equivalency price would be about $1.90 per barrel than the composite price under present controls of $7.66 per barrel.

Reserves at the end of 1975 were about 210 trillion cubic feet compared with 280 trillion at the end of 1967.

We have been using gas at about twice the rate of discovery of new reserves in recent years and production has fallen 15 percent short of actual demand.

The Senate has taken the first step to decontrol the price of natural gas but the House solution would extend regulation to intrastate gas as well and dry up what incentive is left.

Mr. President, if the examples of oil and gas regulation are not enough to prove that Congress cannot repeal the laws of supply and demand nor substitute its infinite wisdom for the practicalities of the marketplace, then I am afraid we will continue toward the brink of disaster when the Arab oil producing countries or any other substantial OPEC country should decide to shut off the oil spigot again.

Let us hope that Congress will begin an orderly unravelling of the skein of suppressive and tangling regulation it has woven around industry in recent years and allow the free enterprise system to operate in a truly competitive environment again.

Both the Congress and the U.S. consumer might well be pleasantly surprised with the results.

ORDER FOR BUSINESS

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

Mr. STEVENS. Mr. President, I yield 7 minutes of that time to the Senator from New Mexico (Mr. DOMENICI).

NEW MEXICO AND EXCESSIVE REGULATION OF NATURAL GAS

Mr. DOMENICI. I thank the distinguished Senator from Alaska, and I hope I will not use the entire 7 minutes and that I can return some of it to him.

First, I thank the senior Senator from Arizona (Mr. FANNIN) for his opening remarks and for bringing us together here to discuss some of the problems that excessive regulation brings to the energy crisis in America.

In his remarks he mentioned my name and my State, and I choose to use a few minutes this morning to talk about a subject that I truly hope my fellow Senators will read because I do not believe they understand the situation that exists in a State like New Mexico, a producing State, a State that is fourth or fifth, depending on whose chart you look at, in the production of natural gas in this country.

Mr. President, many people argue that it is time we have a reconciliation in this country with reference to consumer interests and the production-of-energy interests, and I would like to talk about another kind of reconciliation and that has to do with the reconciliation that must occur with reference to producing States if, as a matter of fact, they are going to be partners with the American people in trying to solve some of the energy crises.

I cite for my fellow Senators the situation in New Mexico. I do not think they would believe this is true, but it is. We have a small State in terms of people but rich in natural gas, and because we were small when natural gas was found and developed and the distribution system put into place, about 90 percent of our natural gas, that is found on our Federal lands, on our State lands and on private lands, immediately finds its way into the interstate system destined principally for points west and, particularly, the great State of California.

That means that somewhere in New Mexico its own communities find themselves served by the interstate pipeline. We have a situation in our State, believe it or not, where there is a community called Grants, famous because it is the center of uranium production, that is once again busy because of the growth attendant by virtue of uranium exploration and development so as to help this Nation meet its crisis. Seventeen to 20 miles away from that community there is an available supply of intrastate natural gas, natural gas that is there to be used in the State of New Mexico.

That little community of Grants is growing so that it can help solve the energy crisis. Would my fellow Senators believe that we cannot take that natural gas that is 17 miles away, put it into a pipeline that is underutilized, that has plenty of capacity to transmit gas, that we cannot put that natural gas in that pipeline and take it to that community which is now on a moratorium and an allocation while it tries to grow and add houses to produce uranium in the mining field, that our own natural gas sits 17 miles away, and if it gets into that interstate pipeline it cannot be used in the State of New Mexico or at least is subject to allocation to other parts of the United States?

Now, I do not think my fellow Senators believe that situation exists. I think they would wholeheartedly support legislation which would tell our Federal Power Commission to let that kind of natural gas under those circumstances be shifted in that pipeline so long as the price was paid and so long as it did not use up the need of that pipeline for the interstate gas. I just do not believe they would support a national policy that would run that pipeline at half or less than its capacity and refuse to let us put some of ours in to serve a growing community.

Mr. President, the reason I raise this point is that the energy field is laden with inconsistencies of this type, irregularities, and absolutely impossible practical situations.

So while those who are in the areas that need energy that do not have it, that want the energy laden Southwest or Rocky Mountain Southwest—the energy basket for the future to cooperate in a partnership approach to this solution, and while they might stress reconciliation of the various interests, I urge that they also consider reconciling some of the inconsistencies that place a tremendously onerous burden on the producing States, their communities and their people so that they can hardly see their way clear to support the development of energy within their State boundaries.

They feel that to do so is to further minimize their State opportunities to utilize a rather insignificant portion of the energy for their own basic needs.

What an insult in this situation when they are using that energy for growth in energy areas such as uranium, such as coal gasification, and the like.

That is the situation and I call it to my fellow Senators' attention. I thank the Senator from Alaska for yielding.

The ACTING PRESIDENT pro tempore. The Senator's time has expired and the Senator from Alaska has 3 minutes.

Mr. STEVENS. I thank the Chair.

THE IMPACT OF FEDERAL REGULATION ON NATURAL RESOURCES AND ENERGY

Mr. STEVENS. Mr. President, I am most pleased to join in the statement of my colleagues from the West concerning the impact of Federal regulation on natural resources and energy. Nowhere is it more apparent than in my State with hundreds of trillions of cubic feet of natural gas, tens of billions of barrels of oil, billions of dollars worth of minerals, vast timber resources and vast hydroelectric resources, and our resources are still virtually untapped.

Mr. President, in the time since we discovered oil on the North Slope of Alaska, the British also discovered oil in the North Sea, using American companies.

It is most interesting to note that the British, who discovered their oil 3 years later, have gotten their oil to market already yet the oil which was discovered in 1967, in Alaska, will not be at our market, at what we call the South 48, until at the earliest 1977.

It took us 10 years, and Great Britain was able to do it in much less. If there is anything that shows the great impact of the regulatory process, the delays inherent in it and the effect on our own markets, then that delay in the Alaska pipeline, in the delivery of this great oil from Prudhoe Bay to our hungry market in the South 48, I do not know what it is.

But it is not just oil or gas. It is also our minerals.

Recently, we had a study by the Office of Technology Assessment on mineral accessibility, and this should stagger the American public. Alaska is one-fifth the size of the United States, $375 million acres, and the study shows that only 5 percent of that land is open to hard rock mining. Sixty-nine percent is absolutely closed. Eight percent is highly restricted. Twenty-one percent is moderately restricted. Two-thirds of the land, the Federal Government owns which is closed to leasing for hard rock and other resources is in my State. We are facing a shortage of minerals and metals which will make the fuel and energy crisis look like a tea party. I think it is time we take a close look at what is going on with regard to mineral accessibility.

Many of us warned at the time, that the delay on the Alaska pipeline would cause great problems for the rest of the country. Just imagine, Mr. President, what would have happened at the time the Arabs pulled an embargo if the North Slope oil was ready to come out of the Alaska pipeline. It could have been. We started construction of the pipeline in 1969. I was there at the dock in 1969 when the first pipe was delivered. Yet this pipeline will not deliver oil, as I said, until 1977.

During the interim, the price of oil has gone up. It was $1.75 a barrel, when I first came to the Senate, for foreign oil. This year we will pay $17.50 for the same oil.

The impact of the failure to meet our energy needs through prompt and effective review of the problems and decision-making is probably what has caused the price to increase more than anything else. We could have met the Arab embargo in 1973 with Alaskan oil had we determined to do it.

Now we find other things. We find the impact of Federal regulation in the timber market is such that our mills in southeastern Alaska are ready to close. About 3,500 jobs are in jeopardy because we do not have adequate laws, for environmental problems we know we face.

EPA tells us our mills will have to be closed unless they can comply with reg-

ulations that were made for the densely populated areas of the South 48 which have no applicability in our areas. Our mills are located in very remote and isolated areas, with no other mill within 100 miles, with no other industrial site within 100 miles. Yet the industrial standards that are set up to restore the rivers of the East are now going to prevent us from utilizing the timber resources of the southeastern part of Alaska.

Mr. President, the great difficulty with the regulatory process in this country is that it is slowly grinding to a halt. All efforts to discover, develop, and produce the resources of the so-called frontier areas of this country—whether it be the onshore areas of Alaska—or the great Outer Continental Shelf of my State, 70 percent of the Outer Continental Shelf that this Congress spent so much time worrying about is off the State of Alaska—are stymied by excess Federal regulations.

When we talk about those problems we are talking about Alaska problems, and when we talk about public land problems we are talking about Alaska problems, because over half of the Federal lands left in this country, in Federal ownership, are in my State.

I think it is time we received the regulatory process and redesigned that regulatory process to give adequate incentives, to encourage, and speed up the discovery and development of the resources in these frontier areas so we can achieve self-sufficiency or near independency in the energy field.

It means the development of the resources of the frontier areas if we are to have the goals we want in terms of our own economic fabric. It means we must stop being dependent upon foreign sources in not only energy, but also in terms of our metals and minerals, as I mentioned before.

Lastly, let me point out a most difficult problem about regulation, Federal Government regulation, as it applies to Alaska.

For over 100 years, the Alaska Natives waited for the settlement of their claims against the United States. Through the action of this Congress and the cooperation of my State government, which agreed to pay more than half, really, of the cash settlement to our Alaskan Native people, they finally achieved in their own right the prerogative of developing land and of managing their own future.

Yet we find that because of the government problems, the title that was given to them in 1971 probably will not be conveyed to them for 20 years. Because of the problems which existed with surveying, patenting, and eliminating the conflicts between the land the Congress made available to them and other Federal land, it will be about 20 years before they get complete title to their land.

The Claims Act, as I said, gave our Alaskan Native people $962 million. Because of inflation and the delays involved, that settlement will probably be worth less than half of its original amount by the time they get title to their land.

The money was given to them so they would have the capital to develop this land base and to assist in the production of the resources that the country needs so much.

The problem is with regard to easements across the Federal lands. If the proposals to withdraw substantial amounts of Alaska land from any entry at all—and there are proposals pending before the Congress to withdraw from 83 million to 125 million acres of land and make it inaccessible to Alaska people, including the Native people, if those proposals are approved, for without regard for the need for easements from these pockets of Native lands so that they can have corridors for transport of their resources across Federal land as they develop them, I think history will show that they have been really cheated in the total settlement that was made to them. That settlement was made on the basis of an aggressive Federal policy to assist them in entering the 21st century with all other Americans; to give them a capital base and a land base, and the prerogative to determine their own future.

At this time, when these lands owned by the Federal Government are being locked up so tightly and access is being denied to all Alaskans, I think this leads more than anything else to the demand that most westerners are making, that the regulatory process, and particularly the process of determining the accessibility of Federal lands to Americans, must be reviewed by the Congress.

I am delighted to join my friends from Arizona, Wyoming, and New Mexico in trying to point that out to the Senate today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

ADDITIONAL STATEMENTS SUBMITTED ON FEDERAL REGULATION OF ENERGY AND NATURAL RESOURCES

OVERREGULATION

Mr. BELLMON. Mr. President, it is a sad duty to join my distinguished colleagues in calling attention to that part of the steady worsening of our energy situation which is caused by overregulation.

So much of our country's desperate energy situation is beyond our control. Natural causes and forces affect the availability of oil and gas production. Foreign countries on whom we have become increasingly dependent have their own self-interests to advance.

But, unfortunately, much of our energy pains are self-inflicted. By practically eliminating the oil and gas depletion allowance, Congress took a giant step away from energy independence by simply reducing the amount of capital available for investment in finding and developing new oil and gas reserves. By setting a ceiling on the price of crude oil and rolling the price of new crude oil back, Congress took another giant step backward in achieving energy independence because no matter what the intention was, we "sent a message" to thousands of independent oil and gas operators that some crude oil was simply too expensive and should not be produced. So, small secondary recovery projects and high cost work-over projects in areas such as Oklahoma where the primary, easy to get oil was produced many years ago were simply discontinued.

However, another category of self-inflicted injury is the creation and perpetuation of the entire system of regulation of the Federal Energy Administration. Despite good intentions and capable and dedicated people, the fact remains that controls cannot work without a system of regulation. Each regulation spawns countless other regulations, interpretations, amendments, and inequities. Each court test of a regulation calls for another series of regulations. Ultimately the whole system becomes impossibly unwieldy and counterproductive so that logic and commonsense are no longer served. The regulations become self-serving. We might like to become energy independent, but the burden of more controls and more regulation constantly move us in the other direction.

Anyone who has participated as I have in the detailed hearings as the Federal Power Commission attempts to decide a question as relatively simple and straightforward as whether or not to allow the use of natural gas to run pumps for irrigation of crops in western Oklahoma cannot escape the conclusion that regulation is ultimately doomed to fail. Informed observers come to favor deregulation if only to get away from the burden of regulation.

Others have spoken today on the cost to the consumer of energy regulation. Others have spoken today on the dampening effect of regulation on the supply of energy. My plea is that we decontrol crude energy prices as soon as possible to make the Federal Energy Administration unnecessary. Frankly, I fear that the FEA will become the FPC of the oil business. No matter how well meaning its efforts, if the FEA does for oil production what the Federal Power Commission has done for gas production, God help us.

REGULATORY REFORM

Mr. McCLURE. Mr. President, there has been a great deal of debate concerning the efficiency and competency of regulatory agencies. Much of this debate has been theoretical. Today, I will briefly discuss two real-life examples of how regulatory agencies can create immeasurable harm to our society and actually threaten our national security. One example deals with energy and the other with natural resources and environment.

During the House-Senate conference leading to the Energy Policy and Conservation Act, a small minority warned that the regulatory authority proposed for FEA would actually prevent the United States from achieving independence from foreign oil suppliers. Even though one of the goals of EPCA is supposedly to decrease oil imports, the so-called composite price regulatory approach would actually increase the need for OPEC oil.

As we all know, the small minority lost and FEA's support for the "composite price" prevailed. On March 4, 1976, however, FEA published its statement

concerning implementation of this irrational approach to energy regulation. It is now evident even to FEA that the composite price regulations will produce serious disincentives for the production and exploration of oil in the United States. In other words, under these regulations the supply of domestic oil will continue to decrease, with increasing imports left as the alternative. And under the so-called entitlements program, FEA has already provided financial incentives for increasing imports. The combination of the composite price and "entitlements" regulatory approach insures the continued growth of OPEC oil sales. It was for this reason that I labeled EPCA as the Oil Importers Relief Act of 1975.

It is hard to believe that the Federal regulatory agency responsible for increasing the security of our energy supplies should be enforcing regulations which penalize domestic production and reward foreign imports. It is also difficult to understand how the Federal regulatory agency responsible for protecting the environment has gained so much power that it can threaten our national security.

It is a well established fact that EPA has been busy shutting down foundries for the past several years. Most foundries are small, independent operations—82 percent employ less than 100 people and 50 percent have less than 20—so there has not been much publicity as they have been closed, one by one. But, what is the final sum of these individual closings, most caused by unreasonable environmental regulations not required to protect human health? Let us examine just one of the impacts on our defense capability—decreased armored vehicle production.

It may be difficult for regulators to find a connection between EPA demands and the 1973 Middle East war, but the connection certainly exists.

One of the major surprises of that war was the unexpectedly high attrition rate for tanks. As a result of the losses sustained by both sides, the U.S. Army realized that we needed 3,000 more tanks than originally planned. In addition, the demands from foreign sources for our tanks, including the M60 series, resulted in the shipment of over 1,600 tanks from our existing inventory. But, filling this defense need has been seriously delayed due to the lack of foundry capacity. The closings which took place between 1970 and 1975 have finally become a matter of major concern, something that should have occurred at EPA during the times when the unreasonable regulations were being imposed.

It should be obvious to anyone—even a Federal regulator—that a nation suffering from serious shortages of basic industrial capacities is not able to provide the excess capital and equipment necessary for protecting the environment. You cannot close down the foundry producing valve housings for sewage treatment plants and still expect to protect water quality.

The question, though, of foundry capacity for defense production is one that has to be faced today. The unnecessary and unreasonable regulations enforced by EPA have to be reexamined. We can have both a healthy environment and a strong national defense, but not if we leave the final balancing decisions to Federal regulators. And, of course, if EPA is allowed to continue its past policies and philosophies, one of the major losses will be our ability to protect the environment.

Mr. President, rather than go into more details on this problem here today, I refer my colleagues to an article in the March-April 1976 issue of National Defense magazine. This article, entitled "The Foundry Industry—Achilles Heel of Defense?" was written by Ms. Debbie C. Tennison and describes accurately the seriousness of EPA regulatory policies. I ask unanimous consent that it be printed in the RECORD.

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

THE FOUNDRY INDUSTRY—ACHILLES HEEL OF DEFENSE?

(By Debbie C. Tennison)

The foundry industry may be the Achilles' heel of our entire defense-industrial base. Foundries produce metal castings required as end products or component parts of 90 per cent of all durable goods manufactured in the United States. Without foundries, there would be no ships, helicopters, aircraft, guns, motor vehicles, or hundreds of other metal products.

"The castings industry is a key industry," says Clyde B. Jenni, Washington representative of the Steel Founders' Society of America. "If there were no castings, the economy would come to a halt immediately."

Almost every kind of weapon system relies on the availability and highly developed expertise of casting production. According to the American Foundrymen's Society, tank production has been seriously affected by the loss of this capacity and of expertise in turret and hull manufacture. The military truck and vehicle program also is a cause for concern due to the critical shortages of castings—particularly engine and drive-train components. One of the Nation's most basic industries, the foundry industry comprises some 4,500 producing units, with more than 350,000 workers who produce in excess of 22 million tons of castings annually. Of this amount there are 2.2 million net tons of steel castings produced. The total casting industry (when considering casting value after production) is worth at least $15 billion.

The foundry industry's size is often measured by tons of castings shipped. The dollar value added by manufacture is usually used to compare it with other industries. According to the latest data issued by the U.S. Department of Commerce, the foundry industry ranks sixth among all manufacturing industries. Only aircraft, motor vehicles, blast furnaces and steel mills, basic chemicals, and communication equipment exceed the foundry industry in rank and size.

Measuring the industry's size is complicated, since most foundries are either small, independent, privately owned operations, or are captive foundries of large automotive or heavy equipment manufacturers. Eighty-two per cent of the Nation's foundries employ less than 100 workers; 50 per cent have less than 20.

Foundries produce castings by pouring liquid iron, steel, aluminum, bronze, brass, or other metals into cavities of sand, metal, or ceramic molds. These metals most often are melted in electric furnaces, cupola, or gas- or oil-fired furnaces of the crucible or reverberatory type.

The ferrous melting processes use the following raw materials: scrap, alloy metals, coke, merchant pig iron, and limestone. Nonferrous casting production utilizes primary or secondary (refined from scrap) ingots of proper analysis. Compacted sands using clays and resin binders form the molds into which the metal is poured as well as the intricate cores which shape the internal contours and passages of the casting.

Usually a pattern first is made which conforms to the external shape of the desired casting. Sand then is formed around the pattern in a boxlike frame or flask. After the pattern is removed from the two molded halves and cores are placed where needed, metal is poured into the cavity formed by the pattern. When the molten metal has solidified, the casting is "shaken out" from the mold and cleaned.

Steel castings and many iron castings are heat-treated to develop the desired engineering properties. Although some foundries machine their product, many other foundries ship the castings to their customers for machining and/or assembly in a final product.

Foundry casting production is essentially the same for castings varying in weight from a fraction of an ounce to a hundred tons or more. Although most foundries are small, automatic molding equipment and elaborate materials processing permit larger producers to make high-speed production runs of tens of thousands of pieces from a single pattern. Some foundries provide a wide range of very specialized services including machining, special coatings, radiography, and ultrasonic testing.

The basic types of foundry casting operations are commercial high-production casting (production segment), and contract or job-shop casting (jobbing). The jobbing and production segments serve quite different markets. Defense items usually are made by jobbing foundries.

Although the electric-arc furnace is used for steel foundries, the predominant melting unit in gray and ductile-iron foundries for both production and jobbing segments is the cupola furnace. This furnace ranges in size from a melting capacity of 2 or 3 tons per hour to as high as 100 tons per hour.

Cupola furnace particulate emissions can be controlled at practically any desired level by appropriate combinations of mechanical collectors, wet caps, and variable efficiency wet scrubbers. Environmentally approved equipment such as this would cost about $500,000 for a 15-ton hour cupola (1973 prices). Annual operating costs would be $50,000 for production and $36,000 for jobbing.

Production foundry shops normally are highly mechanized and designed for repetitive production of a limited range and type of items rather than for product variety or special customer requirements. They usually have long production runs, with the cupola melting furnaces in operation over periods of 40 weekly or more—sometimes around the clock for five or six days per week.

Jobbing shops, on the other hand, can produce special designed castings for customers and have special pattern and mold departments for making individual molds. The most significant difference between jobbing and production shops is in the continuity of the pouring operation. Although jobbing shops may spend from days to weeks preparing molds, the metal melting and pouring can be accomplished in hours. Because of this, the cupola furnace at a jobbing shop is in operation for only a short time, but at or near full capacity. Jobbing shops must be capable of casting both large and small items—so the furnace size is generally dictated by the size of the largest casting.

"Combat tanks represent a particular problem (in foundry production) because of their size and the special equipment needed," explains Maj. Jimmie H. Akridge, former Army tank production base staff officer. "Tanks are made from rather large castings that most foundries don't have the capability

to cast. Also, there is a lot of complex equipment required for tank castings that usually is not available in a foundry."

Examples of this equipment include radiography and specialized heat-treating equipment, testing devices, and some other special machinery.

Major Akridge says that, as far as the Army is concerned, "we don't have an adequate industrial foundry base to produce the tanks we need." And tanks are not the only military materiel being affected by this inadequate industrial base. There are projected shortages of castings for nearly every other category of military equipment.

While demand for all castings is increasing at a rate of six to seven per cent annually, the number of foundries has been decreasing each year. According to the Cast Metals Federation, between 1950 and 1970 the number of gray- and ductile-iron foundries declined from 3,000 to 1,500, and the number of steel foundries declined from 315 to 309 in the same period. However, at one point in 1960 there were 403 steel foundries.

Between 1970 and 1975 the number of gray- and ductile-iron foundries declined even further, from 1,500 to 1,375, and current estimates are that as many as 500 more will close in the next five years. The primary reason for this, the federation states, is that metal casters have not traditionally generated the funds to modernize, expand, and equip. The number of foundries is expected to continue to decline because of a lack of profits and capital to meet environmental control standards.

The defense industry is being especially hard hit as a result of the steel foundry industry's problems, and our national defense is being threatened by the decrease in heavy armor casting capability of the past few years.

During World War II, 38 foundries produced cast armor in the United States. Of these, only five produced heavy armor (more than three-inches thick). Heavy armor casting capability was enlarged by the addition of three foundries during the Korean war. These were located at East Chicago, Ind., Birdsboro, Pa., and Granite City, Ill.

After the Korean conflict, heavy armor production decreased due to diminished demand for tanks. U.S. tank production averaged only some 350 tanks annually from 1964 to 1974. But even with this reduced demand, the Army had three foundries supplying heavy armor castings up through 1972. These facilities included the Blaw-Knox Foundries at East Chicago and Pittsburgh, and the General Steel Castings Foundry at Granite City.

The Granite City plant produced tank hulls and turrets under a subcontract from Chrysler Corporation until 1972 when the foundry was forced to close its doors.

"We closed because there was insufficient business to keep the foundry operating," explains Taylor Desloge, vice-president of General Steel. "We just were faced with mounting costs and the need to make sizable capital expenditures, and the castings division had not produced satisfactory earnings for five years. We did not feel there were prospects for improvement in the future."

Mr. Desloge explains that cast armor was a small part of the business of the plant and that General Steel does not plan to produce cast parts for the Army in the future.

Following the closing of the Granite City foundry, Blaw-Knox closed its Pittsburgh plant in 1973, consolidating its armor production operation at its East Chicago facility.

These foundry fatalities are attributed, at least in part, to large capital expenditures that would have been required to comply with clean-air and OSHA standards. As a result of the closings, the Army was left with only one facility to supply heavy armor castings.

Until the early 1960's, tank production was kept at about 60 per month—the rate considered minimum to maintain an expandable base. But in 1964, in the face of increasing budgetary pressures, the production rate was reduced to about 30 tanks monthly—where it stayed until 1973 when more than half of the annual increment covered modification of M60A2's.

With the production rate reduced to about 15 new tanks per month, there was insufficient volume to keep some of the component vendors in business. Some closed and some redirected their efforts into commercial production lines. The net result was a severe restriction on the immediate response capability of the production base.

Though not a desirable situation, at the time the Army did not consider the situation critical. Army over-all tank assets exceeded inventory requirements, but prime tank assets (M60 series tanks equipped with at least a 105-mm. gun and powered by a diesel engine) accounted for only 59 per cent of the total inventory, and long-range actions were under way to upgrade the tank inventory posture.

Although contracts were placed to increase M60A1 tank production from 15 to 40 monthly, the October 1973 Middle East war caused the Army to make further increases. Based on experience gained during that war, the tank combat planning loss factor was increased from about 8 per cent to more than 20 per cent. Because of this increase, more than 3,000 tanks were added to the total tank requirement.

Further compounding the situation were urgent requests for tanks by foreign countries during and after the Yom Kippur war. Some of these requests were filled from Army inventory assets—resulting in a significant drain on our inventory. More than 1,600 tanks have been shipped or are committed for shipment to foreign countries.

Because of the depleted Army tank asset posture, the continued and increasing foreign demands for tanks, and the unsettled international scene, it became obvious that tank production had to be increased expeditiously to minimize degradation of Army combat effectiveness.

A plan was designed to provide increased quantities of M60 series tanks, and to upgrade older M48 (90-mm. gun) tanks. Under the Army's production acceleration plan, as approved by the Deputy Secretary of Defense in November 1974, the production rate of the M60 would be increased from 40 to 100 monthly over a 2-year period and 1,209 M48 series tanks would be converted to M48A5's (with 105-mm guns and diesel engines).

Under the M-48 conversion plan, 360 of the tanks to be upgraded are M48A3's which are readily available and relatively easy to modify since they already have diesel engines and only need to be upgunned. It is estimated that these will be available to the Army as prime tank assets sometime this year.

The Army is expected to have its required number of prime tanks by 1981 with implementation of the production-acceleration plan. Long-range plans include modifying all M60A1 tanks to M60A3's and filling the entire inventory with XM1, M60A3, and M60A2 tanks by 1990.

In the meantime, at present there is only one U.S. foundry producing hull and turret castings for the Army—Blaw-Knox. These castings are provided to the Chrysler-operated Detroit Tank Plant where Chrysler Corporation assembles the tanks.

Chrysler has a large number of component suppliers, but the foundry input really begins the process. Chrysler has built 19 different military tracked vehicles and two wheeled vehicles in the Government-owned facility since the beginning of World War II. The corporation is currently the only manufacturer of combat tanks in the United States.

About three M60A1's are assembled daily at the Detroit Tank Plant. When the second Blaw-Knox foundry in Wheeling, W. Va., becomes operational within the next year, Chrysler expects to expand production to about five tanks daily—or 100 monthly.

The M60 tank is the only U.S. combat tank being built now. A new tank, the XM1, is scheduled to go into production about 1979, and Chrysler and General Motors are expected to roll out their versions of the XM1 sometime this year.

These two competitive designs will be tested, and the winner will compete against the German Leopard II. The winner of that competition is expected to become the successor to the M60.

Other articles in this issue relating to foundries or tanks include one on page 364 entitled "Tank for the 1980's"; Tank-Automotive News on page 336; and Materials Report on page 341.

Chrysler, currently the prime contractor for the Army's tank production program, is supported by six steel foundries: Buckeye Steel Castings of Columbus, Ohio; Lebanon Steel of Lebanon, Pa.; Ross-Meehan Foundries of Chattanooga, Tenn.; Blaw-Knox Foundries of East Chicago; Sivyer Steel Castings Company of Bettendorf, Iowa; and Wehr Steel Company of Milwaukee, Wis. Among the hundreds of other corporations which support the program are: Goodyear Corporation of St. Marys, Ohio; Standard Products of Port Clinton, Ohio; FMC Corporation of Anniston, Ala.; and U.S. Forge Company of Detroit, Mich.

Specific problems of the foundry industry will be referred to in the second article of this series—scheduled for the May-June 1976 issue of National Defense. An examination of these problems will make clear some of the reasons why the foundry industry may be the Achilles' heel of our defense-industrial base.

FEDERAL REGULATION

Mr. JOHNSTON. Mr. President, Federal regulation has failed most notably and most miserably in the area of natural gas production. The failure has not been caused so much by the manner of implementation of Federal regulation as by the very fact of Federal regulation. And recently the House, by a narrow margin, has voted to extend this system of failure to the intrastate natural gas markets. That House bill is presently pending before this body and I trust my colleagues will reject that bill later this year. A brief review of the facts reveals ample justification for such Senate action.

According to the National Energy Outlook of 1976, published recently by the Federal Energy Administration, natural gas supplied about 44 percent of our Nation's nontransportation energy uses in 1975. However, the 20.1 trillion cubic feet of natural gas used in 1975 is a significant decline from the 22.6 trillion cubic feet produced and consumed by our Nation in 1973. This reduction in usage is directly related to an equal reduction in natural gas production during the same time period.

Of most concern is the fact that since 1968, the continental United States has annually consumed more natural gas than producers have discovered each year in the form of new reserves. According to the Federal Power Commission, the average annual reserve additions of natural gas since 1970 have been 8.8 trillion cubic feet. Of that number,

only an average of 0.4 trillion cubic feet in reserves have been dedicated annually to the federally regulated interstate natural gas market—the rest being dedicated to the nonregulated intrastate markets.

Mr. President, last year my State, Louisiana, produced 36 percent of the natural gas consumed by our Nation. But under the present Federal regulatory scheme, three-fourths of that natural gas was sold to consumers elsewhere and only one-fourth was allowed to remain in Louisiana for use by her citizens. That natural gas which remains in Louisiana is a precious and expensive commodity, often selling for two to three times the interstate market price set by the Federal Power Commission.

The demands placed on Louisiana's intrastate natural gas supply are many: because natural gas has been an historically plentiful fuel and is an energy supply indigenous to our State, almost 80 percent of Louisiana's energy needs, including electric power generation, industrial uses and home heating uses, are supplied by natural gas; our extensive petrochemical industry depends on natural gas as an often irreplaceable feedstock; and, when emergency shortages occur in the interstate market, as they did last winter and most assuredly will next winter, the Federal Power Commission allows natural gas from intrastate reserves to be sold into the interstate market for 60-day periods without subjecting those reserves to Federal regulation. Last winter, a national total of 32 billion cubic feet of natural gas was sold from intrastate reserves to alleviate such emergency shortages. Due to these diverse demands, Louisiana industries and municipalities have long suffered the outrage of being unable to obtain long-term supplies of this very commodity which is produced so prolifically in our own State. Curtailments of gas supplies to historic users have now become commonplace in Louisiana.

Against this background, the House recently voted to extend Federal regulation to the intrastate market—a decision which would mean less natural gas for my State and less natural gas for our Nation as a whole.

Mr. President, both the Federal Power Commission and the Federal Energy Administration, the two agencies charged with energy regulation, have stated emphatically that the solution to the natural gas shortage lies in less Federal regulation, not more Federal regulation as voted by the House. Specifically, both agencies urge deregulation of the price of new natural gas supplies.

In volume I of the Natural Gas Survey of 1975, at page 3, the Federal Power Commission, which has the responsibility of regulating the interstate natural gas market, stated:

> We believe that deregulation of new natural gas at the wellhead is the single most effective measure that can be taken today to alleviate the Nation's severe supply-demand imbalance.
>
> * * * * *
>
> Federal regulation has played a major role in inhibiting the ability of the industry to locate, develop, and deliver needed gas supplies. Past regulatory policies have established rates at minimum cost-based levels, and administered these rates within a framework fraught with uncertainty and delay.
>
> * * * * *
>
> The end result has been that procedures initiated under the Natural Gas Act have dampened the search for new supplies, reduced proven inventories to improvident levels resulting in chronic deliverability problems, increased gas demand with much of it directed toward less efficient uses, diverted gas away from the interstate market, and damaged the industry's ability to develop new capital to explore for and develop new domestic sources of gas.

Mr. President, I agree that all new natural gas supplies must be deregulated. The question the House bill will soon present to the Senate is not whether the consumer will pay a higher price for natural gas, but whether the consumer will have sufficient natural gas to meet his needs. I am confident that my colleagues will vote against the pending House bill and for an adequate natural gas supply and the jobs and economic stability an adequate natural gas supply will assure.

GOVERNMENT REGULATION

Mr. PEARSON. Mr. President, for some time it has been obvious to us all that a comprehensive energy policy must be formulated soon. When this Congress convened a year ago, we recognized the need to compose an integrated program to increase production, develop new sources and stimulate conservation. One component of that policy—increased production—is now within our reach. And yet we fail to grasp it. If we are to buy the time required to bring developing sources of energy into play we must now stimulate production of our existing fuels such as natural gas.

Counterproductive regulation of natural gas stands in the way of economically justified exploration and development. That is certainly not to say that all regulation produces adverse effects. Regulations that bring about conservation and prevent unrealistic profits from market manipulation are essential. But regulation that holds prices below a market clearing level creates shortages which extract unnecessary costs from the economy.

Competition is the best regulator, continuously matching supply with demand by constant adjustment. Artificial regulation attempts, through freezing conditions at some base period, to replace this natural mechanism. The attempt is frequently unsuccessful because it seeks to impose a static concept on a perpetually changing world.

Regulation's impact on natural gas is obvious: demand for natural gas in the federally regulated interstate market has continued to accelerate beyond available supply since 1970. If we do not take some action our Nation's consumers will continue to be deprived of a vital and efficient energy resource.

The need for action is the result of a two-tier pricing system for new natural gas—the free market intrastate price and the federally regulated interstate price. The system has artifically diverted supplies to the intrastate system in excess of demand in some areas. It has discouraged exploration and development of new natural gas supplies for the interstate market. The Senate, recognizing the need for action, on October 22, 1975, voted to eliminate the problem by deregulating new natural gas on-shore, where the two markets compete for supplies, and by phasing out regulation over a 5-year period offshore where reserves may only be dedicated to interstate pipelines. In addition, various conservation measures were enacted to assure the best use of this precious energy resource.

The House, however, has chosen to maintain the two-tier pricing system. Under the House-passed bill, H.R. 9464, which is being held at the desk, any producer whose marketed production exceeds 100 billion cubic feet annually would continue to be regulated. The new natural gas sales of those producers who produce less would be deregulated. The disincentive of regulation, which today deters exploration and development of new reserves, would actually be extended to cover those companies who market about 70 percent of total national production. About 60 percent of total sales are under regulation today. The House bill achieves an extension of regulation by mandating controls over the new gas sales of the larger producers in intrastate commerce.

How this problem of declining supply can be remedied by extending the causative factor is beyond comprehension. It seems that regulation begets regulation.

The argument for deregulaton of Federal controls over the wellhead price of producer sales of natural gas in interstate commerce is not complex. Natural gas supplied about 30 percent of the Nation's energy last year and about 44 percent of our nontransportation uses. Approximately 21 trillion cubic feet—Tcf—were consumed in 1974. But marketed natural gas production has dropped significantly. From a peak in 1973 of 22.6 Tcf, there has been a dramatic continued decline to 20.1 Tcf in 1975. Since 1968 we have been consuming more natural gas each year than producers have been finding in the form of new reserves. Reserves for 1975 were at the lowest level since 1952. Additional reserves have failed to equal market production for the past 7 years. In short, low regulated prices have encouraged consumption and have discouraged the search for new gas to supply the regulated market.

If natural gas prices continue to be regulated, curtailment of service will persist and most industrial use may have to be severely limited. In its February 1976 National Energy Outlook Report, the Federal Energy Administration reached the following conclusion:

> Natural gas supplies are affected most significantly by the extent and level of gas price regulation. Continuation of regulation would reduce production to 17.9 Tcf by 1985. Of greater importance than the absolute decline in production is the fact that continued price regulation would drastically reduce the interstate share of the market (from 62 percent currently to about 42 percent in 1985). Such a reduction would hasten the migration of industry to the producing areas and would ultimately lead to much higher residential fuel bills in the East and Midwest as residential users are forced to turn to electricity and oil as a replacement.

Between 1970 and 1974, reserve additions to the intrastate market averaged

8.4 Tcf annually. For the same period, annual reserve additions to the regulated interstate market averaged a mere 0.4 Tcf. One must ponder what impact the extension of Federal price controls to intrastate gas production would have on reserve additions to that marketplace.

It is clear that the most significant impact on domestic natural gas supplies arises from price controls. The volume of natural gas available by 1985 is almost completely dependent upon Government energy policy. Although the projected demand for natural gas in 1985 is relatively insensitive to Government regulatory actions, the actual consumption of natural gas forecasts in 1985, according to the FEA, would decrease with continued price regulation due to the lack of available supplies, necessitating the substitution of alternate fuels and increased oil imports.

Last week the Library of Congress reported that should the winter of 1976–77 be only normally cold "current predictions of available natural gas supplies suggest not only widespread factory closing and economic disruption, but also the very real prospect of curtailment of critical human needs * * *." This Nation simply cannot afford to perpetuate a program of wellhead price regulation which has deterred aggressive development of proven reserves and delayed exploration of potential reserves.

Mr. President, there is nothing sinister about the shortage of natural gas in the interstate system. In hearings spanning 3 years, the Senate Committee on Commerce found that energy production in America is not excessively concentrated. Energy production is big business, but concentration is less than in other major industries in this country. The charges of cartel were found to be without foundation.

The natural gas shortage is a result of arbitrary price controls which have cut supply and stimulated a nearly insatiable demand. But this declining production trend can be reversed. Deregulation of new gas prices will offer greater incentives to finance additional gas exploration. As I have noted in this Chamber before, natural gas producers must acquire massive amounts of capital if shortages are to be overcome with additions to new reserves. But if natural gas production is kept uneconomic in comparison with competing capital requirements, capital formation vital to the Nation's energy requirements will not occur.

While deregulation will help assure adequate gas supplies, it does not necessitate unrealistic price increases. The Federal Power Commission estimates that the cost increase for each consumer will be approximately $9 in constant dollars in 1980 as a result of new gas deregulation now. The much less attractive alternative for consumers is the switch to other more expensive fuels.

Mr. President, we have recently been informed that oil imports now exceed domestic oil production. The decline in domestic natural gas reserve additions and production as a result of regulation is well documented. Development of our coal resources is lagging. Yet not one Member of this body will dispute the necessity for U.S. energy independence. Is this goal attainable while price controls exist on interstate natural gas production? My response to that is, no. Energy legislation such as the natural gas bill passed in this Chamber last October is an essential element for a meaningful national energy policy which is responsive to our public needs.

DEREGULATION

Mr. BENTSEN. Mr. President, it is a pleasure to join my colleagues to discuss these issues which are so critical to the national interest. At a time when our dependence on foreign oil is increasing at a dangerous rate, we should be doing everything possible to encourage domestic production of oil and gas.

In October the Senate took a wise step when it approved the Pearson-Bentsen bill, S. 2310, by a vote of 58 to 32. I am absolutely convinced of the wisdom of the Pearson-Bentsen approach.

We can no longer afford delay in getting on with the job of increasing natural gas production. If producers are not given the certainty they need to make the necessary investments, we will be hearing even greater cries of "emergency" next winter. And next winter might not be so kind as the past winter.

Natural gas is our premium fuel. It is clean burning and efficient. It is the optimum fuel from the environmental viewpoint. But the hard truth is that we are running out of gas. As we do, industries and utilities will be forced to convert to fuels posing greater environmental challenges. The more gas we produce, the cleaner will be our air.

With a program of continued regulation, simple economics will dictate that the more expensive gas be left in the ground and the wells capped. This would be a foolish mistake if we were to let it occur. We should produce every economically feasible cubic foot of this precious fuel.

All the experts agree that the natural gas situation must be addressed by some kind of action. Maintaining the status quo is unacceptable. The past two decades of Federal regulation of the wellhead price have produced an economic nightmare. Our best fuel is selling at the lowest price, and those who have depended on it are finding it increasingly unavailable. Jobs are at stake. Home fuel supplies are jeopardized. Producers are unable to produce all there is. And the national dependence on OPEC grows.

In my State of Texas, consumers are paying more than their fair share of the cost of finding new gas in this country. The Federal regulatory scheme is to blame for this. In the spring of 1973, I filed a bill to deregulate the wellhead price of natural gas. In November of that year, I testified at Senate hearings on natural gas. That was 3 years ago. And today there is still no law on the books addressing the problem.

Last spring Senator PEARSON and I joined in cosponsoring an amendment in the nature of a substitute to the Senate Commerce Committee's natural gas bill, S. 692. That amendment was the beginning of the legislation that finally passed the Senate on October 22 of last year as S. 2310. In the period that intervened between filing the Pearson-Bentsen amendment and the passage of S. 2310, the Senate engaged in many hours of discussion and debate. The attention of the full Senate was focused on the alternate choices for almost 2 months and 35 amendments were acted on by the Senate during floor debate. Judgments were made only after careful consideration—and some of them in the end were 180° from the initial viewpoint. The vote on final passage is reflective of the broad-based support for deregulation.

In February, the House of Representatives passed an ill-conceived natural gas bill, H.R. 9464, which if enacted would be disastrous for our domestic energy production. That bill would only extend further the unworkable Federal regulatory scheme which has created the problem.

I oppose sending the Senate bill to conference with the House bill because I believe only irresponsible legislation would result. What is needed is for the House to act on the Senate bill which is pending in the House Interstate and Foreign Commerce Committee. The only action the Senate needs to take on natural gas legislation is to defeat the unwise and unworkable House-passed bill. Then the House will know that it is time for it to act on the Senate bill.

The choice of the Congress is clear. Either the American consumer will have gas at reasonable prices, or there will be continuing shortages.

We must assure that there exist market incentives for the full development of our domestic natural gas reserves, natural gas reserves which are increasingly more expensive to find and develop. It is apparent that the present regulatory scheme acts as a disincentive to the exploration for and development of these new higher cost natural gas reserves. The wellhead price of natural gas must be permitted over a period of time to nearly reflect market conditions in order to attract the risk capital necessary to increase our natural gas production and to redistribute among other energy sources, demands which can be fulfilled by other fuels. Because of the rapidly expanding curtailment rate and because of the time lag involved in obtaining actual production after investment decisions are made, it is essential that our decision be made now. We have clung to outdated policies too long.

Phased deregulation can reduce the shortage of natural gas. More regulation, on the other hand, would only increase the shortage.

The real issue in this debate is whether the Congress will adopt a policy which will encourage the production of domestic reserves rather than foreign reserves. Either we leave precious domestic resources in the ground or we produce them. If we do not produce them it will result in the transfer of American wealth to the OPEC producers. And that transfer will be at the expense of the American consumer.

Because of the nature of our natural gas markets, it will be many years under deregulation before the price of gas to the gas consumer will ever reach the btu equivalent of oil. Any deregulation of new

gas is necessarily phased deregulation because of the old flowing gas already in the pipe under long term contract. What this means is that the American consumer who is able to get gas will have it for an advantageous price. The savings to him because of not having to rely on alternate fuels are tremendous. We should make this saving available to as many consumers as possible, and the way to do this is to increase production through deregulation.

It is a case of simple economics, Mr. President, I urge the members of the House of Representatives to follow the good judgment of my colleagues in the Senate and pass the Pearson-Bentsen bill.

THE PROBLEMS OF FEDERAL REGULATION

Mr. TOWER. Mr. President on several occasions I have joined some of my colleagues, as I do today, in discussing the problems of Federal regulation. We have considered this issue as it affects small businessmen, the capital market, consumers, and various other sectors of our economy.

Today, I would like to address my remarks to the condition of our energy resources—an area currently beleaguered by Federal controls and uniquely sensitive to their devastating effects.

In terms of the energy market, I represent the leading State—if my colleagues will allow me a little boasting here—as far as oil and gas production is concerned. These two fuels supply three-fourths of our national energy needs, and our Permian Basin alone currently accounts for nearly one-fourth of the total domestic crude production.

Coming from the oil patch, I am keenly aware of the technical problems and economic risks involved in energy production, particularly as they affect the independent producers. These individuals—the "small businessmen" of the energy industry—account for roughly 89 percent of domestic wildcat drilling and 75 percent of all discoveries.

From frequent discussions with my own constituents and those from other producing States, it is apparent that energy production is currently one of the most closely regulated industries in this country. Now there is a chilling thought—particularly when you consider the present state of three other tightly regulated industries—railroads, airlines and utilities.

Virtually every aspect of energy production—exploration, drilling refining, marketing and transportation is subject to some Federal control. Considering that Congress has passed 45 energy-related laws since 1973, many of which generated further agency regulations, simple arithmetic indicates the vastness of these Federal controls. No wonder the Federal Energy Administration is finding it difficult to cover all of its bases with a mere 3,400 employees. As we have seen with other regulators, increased regulation means agency proliferation, and despite earnest denials, it appears that FEA is nourishing itself in anticipation of a long life.

Mr. President, I do not intend to review the entire history of our current energy situation, but I would remind my colleagues that it was in 1968 that we first began to rely upon foreign oil imports to meet our daily needs. In the 8 intervening years, we have now come to rely on these sources for nearly 40 percent of our requirements. During the 1973–74 Arab embargo, this country was made abruptly aware that we were no longer energy self-sufficient. We had fallen into that trap of relying on cheap foreign oil, and there was scant pressure on our domestic production levels. When the flow of cheap OPEC oil was cut off, we were caught unprepared, and, in some parts of the country—out in the cold.

The stinging impact of the embargo illuminated the need for a national effort to increase development of existing supplies, encourage conservation of energy, and develop alternative energy sources. In an effort to promote energy independence and protect the consumer against unreasonable price increases, Congress continued price controls on oil and gas, set up allocation systems, repealed the oil depletion allowance for many producers, and passed the Energy Policy and Conservation Act.

This latter measure is one of the most onerous pieces of legislation I have ever seen. The only good thing about it is it makes some of the other restrictive actions look less obnoxious.

For months now, FEA has been busy interpreting the act and proposing rules according to its provisions. The net result thus far shows increased inequities, decreased production incentives and general confusion.

Consider, for example, the effect of maintaining enhanced recovery oil in the lower price tier. In many fields, there are reservoirs of oil and gas which are not feasibly obtainable through primary recovery methods. In some cases, production could be increased or extended through secondary or tertiary recovery. But these processes, which may utilize gases or chemicals, are costly, and unless there is a reasonable margin of return, the well may be plugged. Such production should be decontrolled, so there would be an incentive to utilize our resources more effectively.

Another example of inequity lies in the FEA definition of an oil "property" for determining new and released crude oil. As presently worded, the definition discourages new drilling, creates massive paperwork and auditing problems, and, in some cases, has resulted in costly litigation.

The much-discussed entitlements program is another example of patchwork regulatory approach to energy problems. Since some refiners had access to ample "old," or cheaper oil, while others had to rely on "new" expensive oil sources, FEA set up an entitlements program designed to offset the varying crude costs to the refiners. In many cases, the result has been that the smaller independent refiners end up paying the major oil companies so they can refine their own oil.

While the industry itself is divided over the issue of entitlements, the recent FEA action creating a third tier entitlement for imported oil is clearly detrimental to domestic production. According to an FEA study, the United States is currently spending $125 per person annually for imported oil. I see no reason why we should add to their coffers by further subsidizing imports.

Further problems with the entitlements program have arisen as a result of the FEA proposal to modify the small refiner purchase exemption. Limiting the advantage to a maximum of 1 cent per gallon not only fails to solve the problem of the small refiner, but also limits the advantage granted the purchasers of these entitlements.

Mr. President, there are many other aspects of the EPCA which trouble me, and there are other issues which should be mentioned in any discussion of energy regulation. For example, there is divestiture legislation, proposals to repeal the tax benefits for intangible drilling costs and so forth. Furthermore, Congress is doing untold harm by dragging its feet on deregulation of natural gas.

I realize that my time is limited this afternoon, and I know there are others who wish to speak on this issue. In summary then, I would say simply this.

The time has come when this Nation must undertake an effective and dedicated effort to conserve our existing energy resources and generate the incentive to produce new ones. While this effort may involve some degree of Federal regulation, I think that the course we have presently charted is a dangerous one.

I have seen reports from my own State which indicate an alarming rate in the number of stacked rigs. Texas had over a third of the Nation's active rotary rigs last year, and the national statistics show that active rotary rigs in the United States decreased from 1,800 at the end of November 1975, to 1,520 as of March 15.

Experience and commonsense should warn us that energy production—like other industries we have seen—cannot withstand the kind of regulatory overkill that is going on today. Despite repeated assurances that decontrol will come and that existing regulations are designed to encourage energy independence, my own assessment of the situation is far less optimistic.

Existing and proposed regulations have generally served as economic disincentives to increased production and capital investment. They have created uncertainty, confusion, inequities, and disputes. They have also begun to escalate production costs by virtue of increased paperwork and advisory fees—costs which will ultimately reach the consumer or result in increased unemployment.

We must stop fooling ourselves and the American public. There is no yellow brick road to energy independence. Unless we provide sound economic incentives and encourage free market competition for energy production, we may face some cold winters in the years to come.

THE EFFECT OF GOVERNMENT REGULATORY ON ENERGY

Mr. GARN. Mr. President, I am very happy to be participating in this colloquy this morning. We have had a number of these exchanges on Government

regulation, but for several reasons, it appears to me that regulation of the energy industry is the most serious mistake that the Federal Government makes. It is true that regulation in other areas affects individual decisions, and raises costs to consumers, but regulation of energy affects the supply of the lifeblood of our society. Everything is dependent on energy supplies.

Energy is particularly important to my State. The State of Utah is an energy-rich State, with enormous reserves of coal, natural gas, oil, oil shale, tar sands, and potential supplies of geothermal, nuclear and solar energy.

Unfortunately, the development of this energy potential is inextricably bound up with government regulation. That is so because about two-thirds of the State is owned by the Federal Government, with the allocation of ownership such that virtually any action for development must have the approval of Federal land managers, and thus Federal regulators.

The result is that it is taking an increasingly long time for the development of new sources of energy in the State of Utah. The Kaiparowits powerplant in southern Utah has been on the drawing board for nearly 15 years; it is the best planned powerplant in the history of the world; it has overwhelming support from the people of the State; it will be built without Federal subsidy, by private enterprise. And yet it is far from certain that it will even be built, much less that it will be built soon.

The citizens of my State also report that oil and gas wells are being shut in on an almost daily basis, because of the regulatory actions of the U.S. Government, not least the Congress. Oil production in the Uintah Basin in eastern Utah has fallen off dramatically since the imposition of price controls on petroleum after the 1973 crisis. The repeal of the oil depletion allowance has also discouraged production, and the legislation signed into law by the President in December will only make matters worse, not better.

It is popular these days to flay the oil companies for their rapacious natures, for their passion for grinding the poor into the dust so they can extract the last nickel from them. For perspective, I would just like to make some comparisons between price increases in gasoline and in a number of other commodities. In 1920, a loaf of bread sold for less than 12 cents. In 1975, it sold for about 37 cents. The price of milk went from 16 cents to 47 cents, hourly wages of truck drivers from 47 cents to $5.38. In percentages, these increases work out to 222 percent, 194 percent, and 1,052 percent.

By contrast the price of a gallon of gasoline went from about 30 cents to 47 cents before taxes, an increase of 58 percent. Taxes on gasoline, by the way, increased over the same period from .0009 cent to 12 cents, an increase of over 13,000 percent. If we really wanted to give some relief to the gasoline consumer, we could lower taxes on the product.

Oil company profits are another easy target for attack, or were at least when they were increasing by astronomical percentages. The politicians and commentators never bothered to point out that percentage increases look especially large when figured on a very small base, and that the 1–2 cents per gallon profit is a fairly small base. And I have seen very little about oil company profits since they fell drastically after the 1-year windfall produced by unwise regulatory policies of the Federal Government.

The fact is, Mr. President, that the record of the Federal Government in the regulation of energy is as bad, or worse, than it is in any other industry. I would like to include at this point in the RECORD two documents. One, is some testimony delivered by Mr. Max Eliason, president of Rocky Mountain Oil and Gas to a hearing on regulatory reform sponsored by the Commerce Department last December. The other is a chapter by Dr. Richard Mancke of the Fletcher School of Law and Diplomacy from a recent book on national economic planning.

Dr. Mancke's essay treats the broad history of energy regulation in the United States, and finds it a dismal failure; Mr. Eliason looks at the concrete, practical world of present-day energy regulation, and finds it a very inhospitable environment for a businessman. I ask unanimous consent that the two documents be printed.

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

STATEMENT BY MAX D. ELIASON

GENTLEMEN: I appreciate the opportunity to appear at this hearing on regulatory reform, and to speak against the proliferation of governmental controls which threaten to destroy the free enterprise system of the United States. I only wish that I could mount the dome of the Capitol Building in Washington, D.C., and sound a clarion alarm which would be heard and understood by every citizen. My message would be for all of them to arise in revolt at the ballot box against every politician in this land who favors by his actions increasing the regulation of our economy, for they are leading us into the abyss of socialism.

My name is Max D. Eliason, and I am the Senior Vice President and General Counsel of Skyline Oil Company, which is headquartered in Salt Lake City, Utah. Skyline explores for oil and gas in the Rocky Mountain States and in south Louisiana. My company owns over 16,000 acres of prime-quality oil shale deposits in Uintah County, Utah, and it has been active in oil and gas and oil shale programs since it was founded in 1954.

In October of this year I became President of the Rocky Mountain Oil and Gas Association (RMOGA), which represents over 600 members comprised of both major and independent oil operators. Our members are involved in all phases of the oil and gas industry, including exploration and production, transportation, refining and marketing of oil and natural gas in the eight States of Colorado, Idaho, Nebraska, North Dakota, South Dakota, Montana, Utah and Wyoming. It is as a representative of RMOGA that I am appearing here today.

Among the materials furnished to me last week by the Department of Commerce, was an announcement that the Commerce Department is conducting a series of public hearings throughout the Country, some of which will consider job creation, and the others will discuss regulatory reform. I find this combination interesting, because for too long a major portion of the jobs in America have been created by organizing and expanding Federal regulatory agencies. Some politicians have even suggested that all of our unemployed citizens be placed on the Federal payroll, thereby eliminating all unemployment.

We suggest that the best way of insuring long-range job opportunities for our citizens is to reduce regulation of the economy and private businesses to a bare minimum. New capital formation and new jobs will result from removing from the neck of industry the yoke of government control, and the obligation to support through taxes and otherwise the albatross of the Federal bureaucracy.

The present economic climate in this Country is not good. Considering the tremendous obstacles and burdens which are continually being placed in the path of private industry, however, it is a miracle that our economy is as healthy as it is. This shows the resiliency of our economic system, but even it can stand only so much abuse.

Just this last week I received from RMOGA's General Manager in Denver, a letter which had been sent to us by a RMOGA member which advised that their oil assets are "merely a shadow of what they once were", and that they are being sold to a liquidation company. They stated that "the rewards from exploration, in these times, do not justify the risks involved. We are grateful for your efforts, over the years, in behalf of the oil business. We are proud that we were once a part of it." Our General Manager wrote a note to me at the bottom of the letter which said, "Sign of the times".

Unless the political climate of hostile attitude towards the oil industry changes, many more of our members will be forced out of business. In the last 20 years, the number of independent oil operators has been reduced in half, largely because of unwise political decisions.

Yet, if a pollster were to survey a cross-section of people walking down the street, they probably would overwhelmingly respond that the oil and gas industry is healthy and is making fancy profits. This is not true. If large profits were being realized in the exploration for oil and natural gas, parties would be clamoring to get into the oil business, not leaving it.

The false impression shared by many, that oil companies have been reaping inordinate profits at the expense of the consumer, is the reason they so far have allowed their political representatives to make a whipping boy out of the oil industry. However, the public now appears to be awakening to the grave peril to our economy and military security arising out of our growing dependence upon foreign supplies of energy. This was illustrated by a recent Harris poll which stated that a large majority of the public now favors the complete decontrol of oil prices. Unfortunately, members of Congress do not appear to be as enlightened as their constituents.

Mr. Fred L. Hartley, Chief Executive Officer of Union Oil Company of California, was quoted in the July 15, 1975 issue of Forbes Magazine, as saying, "What is discouraging is the apparent attractiveness to many people of government solutions generally. They seem to feel there is a low price or no price at all. It just comes from the government, whoever that may be". He then noted that Woodrow Wilson once said, "No man ever saw a government. I live in the midst of the government of the United States, but I never saw the government of the United States."

While the legal entity known as the Federal Government cannot be seen, the oil industry feels the impact of governmental control and regulation in every sphere of its activities today. The petroleum industry is probably the most heavily regulated industry in the nation today. Every aspect of our business is governed by some type of regulation. Federal, State and local governments dictate where we can look for oil, the prices we receive for it, where we can locate the pipelines to move it, where we can build refineries to process it, what types of products

our refineries can produce, and to whom, where, and in what quantities we can sell the products.

Governmental control is the antithesis of free enterprise. It represents the substitution of decisionmaking by politicians and bureaucrats for the competitive forces of the market place. The market place decisions are made by the consumers. To a large extent the free enterprise system has been replaced in the oil industry by public employees telling members of the industry and the consumers what the bureaucrats conceive to be in their best interests. We submit that even the most well-informed, honest, and brilliant bureaucrat will never be able to make decisions in the public interest which are as correct as those determined by the market place. This is because bureaucratic decisions are often arbitrary and inflexible, and do not take into account all facts. Moreover, costs and other factors vary so much as to make general rules setting prices and other operating conditions unjust and stifling to business. As a result, bureaucratic controls are often disappointing even to those who have instituted them. The tendency then is to adopt additional controls to correct past mistakes.

This situation then becomes similar to that of a liar who perpetrates one untruth and then believes it necessary to tell additional lies to cover up for the initial lie. He thereby only succeeds in making matters worse, and soon, he is trapped in his own web.

The politicians who have sponsored and supported many of the governmental control measures have perpetrated a great hoax on the American consumer, by claiming that they have done so in order to benefit the consumer. Yet, their ill-advised programs have taken and are continuing to take billions of dollars from the pockets of the very consumers who were supposed to have been benefited by such programs. The costs of these governmental programs are reflected in the prices paid for products, and in the taxes which are levied upon the heads of the American worker.

In the final analysis, it is the American consumer who pays the bill for the folly and mistakes of the politicians and bureaucrats and it is time for all of us to wake up and do something about it. I say "us", because I am one of the consumers spoken of, and so is every other American citizen. As one of the consumers whom these politicians claim to be protecting, I want to tell them to stop their misguided efforts before it is too late. I feel much like a sick person living in the year 1800 must have felt, who was subjected to blood letting as a cure for his malady. All of us consumers are being bled to death "for our own good", and we must force a halt to the process before all of our resources are gone and we are simply wards of the State.

Three examples will illustrate the magnitude of the problem:

1. The November 24, 1975 issue of The Oil and Gas Journal, reported that "the Federal government now has over 6,000 different forms in print. As a result, Federal employees shuffle some 10 billion sheets of paper each year, enough to fill Houston's Astrodome 50 times." It was stated therein that Exxon Company, U.S.A. started in early 1974 "keeping track on the manpower and cost associated with its reporting load. As of now, the company finds it is filing 409 reports to 45 different federal agencies. This excludes all federal, state and local tax reports. Of the 409 nontax reports, 55, or 13%, were introduced in the past 18 months. These 409 reports required the equivalent of 112 employees at a cost in excess of 3.5 million dollars/year. These are company costs not associated with the federal paper shufflers".

2. The August 20, 1975 issue of The Oil Daily, carried an article about Sun Oil Company's "red tape burden." Sun, which is the Nation's 14th largest oil company, "estimates it will spend 280,000 manhours this year merely filling out government forms. One-third of that time . . . . will be dedicated to the Federal Energy Administration (FEA) . . . Sun finds that it prepares 173 monthly, and 3 quarterly reports for the FEA. And those figures do not include resubmissions or duplicate copies to State or other Federal agencies.

3. An editorial in the November 17, 1975 issue of The Wall Street Journal noted that Goodyear Tire & Rubber Co. "spent more than $30 million last year in complying with government regulations—enough to pay 3,400 workers in Akron their regular wages for an entire year." It noted that Goodyear Tire reckons that "the number of federal employees engaged in regulation activities is about 63,000 and they will cost taxpayers over $2 billion in salaries and other expenses this year. That's a lot of people and a lot of money, but the direct cost is peanuts compared with the cost of compliance. If the Goodyear experience were translated to the entire country, using the size of the company's work force relative to the national work force as the basic for calculation, the compliance cost nationwide figures out to some $16 billion. That may well be conservative."

Perhaps the most deleterious effect upon business of this bureaucratic red tape, is the diversion to it of the time and efforts of executive personnel away from productive activity. The efforts of the persons employed by both industry and by the Federal government to comply or check on compliance with Federal regulations could otherwise be used to create goods and services which are of benefit to mankind.

I will now comment briefly on certain areas of control and regulation directly affecting the oil and gas industry. This will not constitute a complete list by any means, but will be illustrative of the problems which result from regulation:

1. OIL PRICE CONTROLS

The price of oil has been regulated since 1971. It and natural gas are the only commodities which still are under price regulation by the Federal government.

As a result of the Arab oil embargo about two years ago, the supply of crude oil available to various refineries in the Nation varied widely because some companies had access to large supplies of domestically produced oil while others did not. In an effort to spread the shortage around, the government established an allocation program requiring those refineries with relatively large supplies of domestic crude to sell some of their oil to crude short refineries.

The maximum price which the selling refinery could charge was the weighted average price of its total crude supply. Those refiners that had relatively little domestic crude had an incentive, therefore, to reduce their imports and buy oil from the allocation program at a price less than the imported price. Thus, the allocation program discouraged the importation of foreign oil from friendly countries during the embargo, which was counter-productive to our national interests, and compounded the problem of long lines at the filling stations.

Once this deficiency became obvious to the government planners, they issued new pricing regulations designed to allow refineries who sold oil under the allocation program to recover their losses on such sales. The firms which conscientiously followed these new regulations were legally entitled to recover more than their losses on these forced sales. This practice became known as "double dipping". When it was brought to the public's attention, the oil companies were severely criticized. This result, however, stemmed from the inability of the regulators to foresee and plan for all of the problems and it illustrates how adding regulation on to regulation to solve one problem, can create additional problems.

The irony and inequities created by government control are further illustrated by some of the conditions which affect the oil industry today. Those producers who over the years risked their resources to develop domestic reserves are being paid $5.25 per barrel for so-called "old oil". That price is not determined by the market value of the oil, but only by decisions of government employees who arbitrarily have determined that this is the price which those producers are to receive. However, producers of so-called "new oil" discovered since 1973 are receiving $13 to $14 per barrel for their product. Foreign oil costs in excess of $14 per barrel. Yet, the barrel selling for $5.25 is of the same quality, and produces the same amount of energy as the barrel costing $14.

This two-tiered pricing program has resulted in even further inequities. It has forced the continuation of the allocation system and the use of an entitlements program. Thereunder, the Federal Energy Administration attempts to equalize the cost of crude among various refineries in the United States. Where one refinery is heavily dependent on high-priced foreign oil, or upon domestic "new oil", its average cost per barrel is higher than is the average cost of oil to a refinery having a larger amount of "old oil". At the end of each month, therefore, the F.E.A. requires oil companies having a lower average cost per barrel of oil to pay through the F.E.A. sufficient money to raise their cost of oil to the national average. The F.E.A. then distributes this money, as an entitlement, to companies which have paid higher than the national average for their oil, thereby lowering their average cost down to the national average.

The government says that these companies are entitled to these payments, but principles of equity do not. This program results in the forced payment of millions of dollars by some oil companies to their competitors, because of government decree. I am saddened to see this day when the Federal government forces one company to subsidize another in this manner. The result is that a penalty is being placed upon the very companies which have been most resourceful and successful in past years in developing the domestic reserves upon which we now depend so heavily. Those companies which were least successful in finding domestic oil, or which spent their exploration dollars overseas, are receiving a windfall at the expense of those companies which stuck it out here in the United States.

For such a situation to be created in our free enterprise Country is criminal, and those who are responsible for these great inequities have done a disservice to every American. This result should underscore the stupidity of continuing the regulation of oil and natural gas.

Is it any wonder, therefore, that the oil industry is incredulous over the bill which Congress appears likely to pass which will now add further regulations on oil prices. Under this measure, the price of "new oil" would be rolled back and placed for the first time under price control. This confirms the pattern of adding further regulations to try to correct the results of poor legislation.

Sometimes the consumer gets lost in the shuffle of Federal actions and double-talk. But we hope that every American will understand that the result of oil price controls is the continued increase in our dependence on foreign oil, which now accounts for over 40 per cent of what we consume. This dependence is increasing, because the arbitarily low prices decreed by Washington do not supply adequate incentive for the full development of our domestic resources. Just as Rome burned while Nero played his fiddle, our domestic reserves are dropping for the fourth consecutive year as the politicians play with oil price controls.

Unless President Ford holds the line against rolling back the price of "new oil", the prospects for this Country ever extricat-

ing itself from the power of the OPEC nations will be grim indeed.

2. PRICE CONTROLS ON NATURAL GAS

I have not always agreed with the positions taken by the recently retired Supreme Court Justice, William O. Douglas. But in 1954 he wrote a forceful dissent in the 5 to 4 Court decision which paved the way for the Federal Power Commission to regulate the price of natural gas in the interstate market. Known as a lawyer who had a keen understanding of matters of finance, he pointed out that price controls on natural gas would eventually lead to severe shortages of that commodity. He predicted that the decision would bring years of confusion as the F.P.C. tried to regulate thousands of natural gas producers, each with a different set of economic circumstances. His prophecy has come true.

The Federal Power Commission since 1954, has controlled the prices paid for natural gas sold in interstate commerce. The basic philosophy guiding this effort has been to make the price of natural gas to the consumer as low as possible. Unfortunately, this philosophy of control did not include an effort to maintain adequate supplies for the consumer.

By keeping this premium fuel at a price significantly lower than either oil or coal, the American consumer naturally gravitated towards the use of natural gas. The low price encouraged increased consumption and waste. Even industrial users have for years used this clean and convenient form of energy as a boiler fuel for the generation of electricity and other industrial purposes. It is little wonder that according to a *Wall Street Journal* article appearing on November 20, 1975, the Federal Power Commission's latest report on world gas production and reserves shows that the United States in 1973 owned just 10.9 per cent of total known natural gas reserves in the world; yet, it marketed 49.2 per cent of all gas sold in the world that year.

Two years ago, I listened in astonishment as two staff attorneys for a Senate Subcommittee told a group of law students at the University of Utah that this Country does not have a shortage of natural gas, even though it has an oil shortage. They apparently had been sitting in their ivory towers in Washington, D.C. and reading statistics, without understanding their import. It was most disconcerting to realize that those very individuals were playing a large role in determining policies adopted by Congress.

Those of us who work in the oil and gas industry, know of the reality of our natural gas shortage. Still, however, there are those who charge that the oil industry is creating the shortage by withholding supplies until Federal regulation allows the payment of higher prices. This is despite the fact that these charges have been investigated and rejected by the Federal Power Commission, the Fifth and Ninth U.S. Circuit Courts, and the U.S. Supreme Court. In addition, the F.E.A. collected its own data in 1974, arriving at a total only 2 per cent above that reported by the American Gas Association.

It is true that there are supplies of natural gas which are not being produced today because of low prices. Our Company, for example, owns interests in wells in the Uinta Basin of Utah which cost over $500,000 to drill and complete and which could be producing natural gas today. However, we cannot afford to produce that gas, or to develop the extensive leasehold acreage in the area by drilling additional wells, because the arbitrary prices established by bureaucratic decision in Washington would require that we take a loss on the natural gas which we would sell.

The national rate which the Federal Power Commission allows to be paid for natural gas sold in interstate commerce today is 52¢ per M.C.F. Yet, as a customer of Mountain Fuel Supply Company, I am helping to pay for gas imported from Canada which is costing now approximately $1.60 per M.C.F. at the Canadian border. Our neighbors on the north have announced that soon the price will be raised to $2.00 per thousand cubic feet, which is almost four times as much as allowed by the Federal Power Commission for domestically produced natural gas sold in interstate commerce.

The United States Congress also has subsidized, using my and your tax dollars, the construction of very expensive cryogenic tankers which will transport liquified natural gas from Algeria, one of the countries least friendly to our own. The delivered cost of this gas also will be at least $2.00 per thousand cubic feet. We, as consumers, will pay for the expensive gas while the Federal Power Commission continues to depress exploratory programs by holding domestic producers prices down to 52¢.

When are we going to start giving at least equitable treatment to our own producers? The answer to that question is that equitable treatment will only be given by allowing market forces to determine price, rather than government decree.

3. DIVESTITURE LEGISLATION

One of the most insidious proposals being made by certain politicians today, is to force the dismemberment of the major oil companies in this Country into production, refining, transportation and marketing segments. The rationale given for this proposal is that the petroleum industry is non-competitive, and that a monopolistic situation exists within the industry because of the size of many of the vertically integrated companies.

Already, the F.E.A. has decreed that the eight largest oil companies cannot jointly bid with each other in competition for leases on off-shore lands.

Some studies by Congressional staffs have concluded that the oil industry is non-competitive. However, these conclusions were obviously reached by individuals who do not understand the workings of the oil and gas industry, and who have at times read statistics and facts which they do not understand and from which they have drawn erroneous conclusions.

Based upon my over sixteen years experience in the oil and gas industry, I can assure you that it is highly competitive.

It is ironic that many of those who claim that the oil and gas industry is non-competitive, are the very ones who have sponsored and supported legislation which has made it less competitive than it otherwise would be. Government regulation of prices, for example, tends to equalize the competitive advantages of one company over another.

Projects such as the Alaska Pipeline, the drilling of wells in off-shore waters, and the construction of synthetic fuels plants, are so large that not even the biggest oil companies can afford by themselves to assume the entire risk. Therefore, even major oil companies must have the right to work together on such projects.

One of the secrets to success of our economic system has been the generation of savings through producing commodities on a large scale. The consumer has benefited by these savings created by largeness in the oil industry and the auto industry, to cite just two examples. So long as anti-trust legislation continues to be vigorously enforced, the consumer's best interests will be served by preserving the present structure of the oil industry.

Just because two or more major oil companies cooperate on a certain project, is no proof that they are not competitors. To claim otherwise is about as foolish as to say that when two large law firms are associated together in solving one legal problem, that they are no longer competitors in other areas.

4. MANAGEMENT OF THE PUBLIC LANDS

A large portion of the lands located in the eight RMOGA States are owned by the Federal government, and are under the direct management supervision of the Bureau of Land Management of the Department of the Interior. Rules and regulations and decisions by unelected public servants are making it increasingly difficult for private industry to develop the mineral resources located under these lands.

For example, in the State of Utah, a system of categorization of various lands was instituted approximately two years ago by the B.L.M. which has removed a significant portion of the prospective lands from exploration for oil and gas or any other leasable mineral. Even when lands are made available for leasing, onerous stipulations frequently are attached to the lease, which restricts the use of the lands covered thereby and frequently results in delaying exploration programs.

Just obtaining the right to build an access road to a particular property oftentimes becomes a Herculean task. There are instances where oil companies have been required to build much more elaborate and expensive roads than their own projects would require, since the better roads then could subsequently be used for Federal programs. In such a case, the oil company has no viable alternative but to comply with the demands, for otherwise its entire project will be delayed.

Some of our members are involved in coal exploration. For approximately the last two years, a moratorium declared by the Secretary of the Interior has been in effect on the granting of any new Federal leases on coal lands, even though the law declares coal to be a leasable mineral. This has brought a complete halt to the coal development programs of many companies.

As I mentioned, my Company has been involved in oil shale development since its inception. We own an interest in unpatented oil shale claims covering approximately 4,723 acres of lands located in Garfield County, Colorado. Applications for patent of these claims were filed with the Bureau of Land Management in 1958. In the intervening 17 years, not one official action has been taken by the Federal government with respect to those patent applications, even though the statutes of the United States give us the right to apply for and receive patents on valid claims.

5. ENVIRONMENTAL PROTECTION REGULATIONS

The oil and gas industry is committed irrevocably to taking actions which will result in no unreasonable adverse impact upon the environment.

The construction of new facilities and projects has been delayed and oftentimes stopped by various Federal agencies, acting pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA). The lengthy delays resulting from unreasonable requirements under this Act would read like a horror story if they were all compiled in a book. These have affected the construction of pipelines and refineries and deep sea ports, drilling projects offshore, and other programs.

Unfortunately, the NEPA and other legislation created by Congress has been used effectively by vociferous minorities such as so-called "environmental groups" to make unreasonable demands for environmental studies and to institute legal actions to thwart new industrial projects. Many of these detractors adhere to the "no-growth philosophy" with respect to industrial expansion, and use whatever means is available to stop industrial developments.

One of the best examples of the results is the case of the construction of the Alaskan Oil Pipeline. The delays caused by bureaucratic red tape in the construction of that facility not only resulted in a seven-fold

increase in costs, but also contributed significantly to the present dependence of the United States on the importation of foreign oil. After a five-year delay, it took a special Act of Congress to overcome the delaying tactics of the environmentalists so that construction of the pipeline could get started.

One vivid example of delays caused by environmental objections which is familiar to the citizens of the State of Utah was the two-year delay encountered by Mountain Fuel Supply Company in obtaining permission to complete a comparatively short stretch of pipeline from Coalville, Utah, to the Bountiful, Utah area. Approval was finally obtained in late fall of this year only after an extensive lobbying and public relations effort was made by Mountain Fuel Supply Company, other members of the oil industry, Governor Calvin L. Rampton, and the entire Utah delegation to Congress. A significant part of this pipeline is, as a result, being built under winter conditions at a much greater cost than if it were constructed in favorable summer weather.

Ten years ago, Governor Rampton hailed the proposed construction of the coal-fired electricity generating facilities in southwestern Utah, known as the Kaiparowitz Project. This facility would provide electricity to millions of people living in the southwestern part of the United States. However, unreasonable demands for the writing and rewriting of environmental statements, coupled with bureaucratic hesitancy in giving approval to this project, have delayed the commencement of the Kaiparowitz Project and construction still is awaiting Federal approval. The opponents thereto do not seem worried over the fact that Southern California Edison now receives from Arab nations over 75 per cent of the oil which it uses to generate electricity. However, the customers of that utility should be very concerned and this Project should be started immediately.

An environmental impact statement was prepared to cover the operation of an approximately 1,000 ton-per-day oil shale retort facility located at Anvil Points in the Piceance Creek Basin of Colorado, under the sponsorship of the Paraho Oil Shale Demonstration. After a successful testing of this retort, plans were made to construct a new facility at the same site, having the capacity to process approximately 11,500 tons of oil shale per day utilizing the same mine and the same technology.

The EPA then ruled this fall that another environmental impact statement will be required for this larger project. This will result in a delay in construction of from 1 to 1½ years. In the meantime, the highly-skilled staff which had been working on the smaller project will probably have to be released pending the receipt of authorization for the new project. This delay and added cost could seriously injure the prospects for the near-term commencement of a commercial oil shale industry.

I took part in the preparation of the Environmental Impact Statement prepared for the prototype oil shale leasing program, under which four Federal tracts were leased for oil shale in early 1974. This Impact Statement took over four years to prepare and consisted of six volumes which, when stacked, are approximately six inches in height and weigh about 12 pounds. The cost of preparing this Statement was between 10 and 15 million dollars. Even after this Impact Statement had been prepared, there were still many parties who claimed that it was inadequate.

The public officials who are charged with the administration of NEPA are frequently so worried about their own jobs, or that they might be criticized for decisions which they make, that they are overly cautious. And well they might be, because there is always the threat of litigation by environmental groups. When charges of inadequacy of environmental statements are made, the normal and natural reaction of these officials is to require further studies. As a result, there never seems to be an end to the process, and costs multiply and delays are added to delays.

* * * * *

One cannot help but be depressed by the deplorable circumstances created by the meddling of the Federal government in the functioning of our economic system. Free enterprise built our Nation into the greatest economic power on earth.

Last week I was given a book entitled "Essential Government Economic Controls, Regulations & Guidelines" by Robert A. Steiner. On the back of the book it states that "Detailed herein are all of the economic areas where he believes that it is proper for the mechanisms of government to intrude into the marketplace and to restrict voluntary free enterprise." When I opened the book, I found that all of its pages were completely blank.

While this book was prepared as a joke, it contains a message which should not be lost, which is that governmental controls, regulations and guidelines should be kept at an absolute minimum.

I would like to call to your attention some of the comments made by David Cole, Director of Eastern Hemisphere Marketing for Continental Oil Company, at a seminar of the Petroleum Marketing Education Foundation in St. Louis earlier this month. Mr. Cole said:

I do not think there exists in Europe a government department offering a (petroleum) price regulation manual running 225 pages, or an allocation regulations manual of some 375 pages with three sets of amendments each month. Collectively, across Europe, there are not anywhere near the 89 U.S. government agencies involved in sorting out one red tape from another.

Mr. Cole's conclusion was that the European oil marketer enjoys more freedom to innovate than his counterpart in the U.S., where "government bureaucracy seems to be choking the efficient . . . to protect the inefficient."

How sad it is that the oil man's freedom in Europe is greater, despite the advanced state of Socialism which exists there, than is the freedom of the American oil man in his own country.

RECOMMENDATIONS

We submit the following suggestions to help correct the mistakes of the past:

1. All governmental controls of oil and natural gas prices should be eliminated at an early date. No new price controls should be enacted, such as those which would force a rollback in the price of so-called "new oil" and place it under price control.

2. The powers of governmental agencies should be (a) examined; (b) restricted where abuse has occurred; and (c) more clearly defined.

3. The provisions of regulatory legislation, such as the National Environmental Policy Act, should be amended to prevent abuse of the original purposes thereof. Those who challenge an administrative decision through litigation and receive an adverse ruling in the Courts, should be required to pay all legal expenses of those who support the administrative decision.

4. All but the most essential reports required to be filed by business should be eliminated.

5. A more effective system of accountability should be instituted for Federal employees so as to reduce their ability to make arbitrary and capricious decisions, or no decisions at all.

6. Specific time limits should be placed upon Federal agencies within which they must make decisions affecting the control of business activities.

7. A system of incentive pay should be instituted to reward those Federal employees who make suggestions and who institute programs which eliminate wasteful practices in government and lead to greater efficiency.

8. Efforts should be made to force Federal agencies to coordinate their activities more closely with each other to eliminate duplication of regulatory actions, and to discourage agencies from competing with each other in growth and in areas of responsibility.

We hope that these recommendations will be of use to the Department of Commerce in instituting programs to reform the regulatory system in this Country. The facts show that such reform is sorely needed.

Thank you for this opportunity to present our views.

ENERGY: THE RECORD OF THE FEDERAL ENERGY ADMINISTRATION, 1974–75

The search for an improved U.S. energy policy brings into conflict two fundamentally different approaches. On the one hand, opponents of central planning point to the costly failures of past U.S. energy policies such as oil import quotas, natural gas wellhead price regulation, and too ambitious mandatory motor vehicle emission standards, and argue that less government planning and greater reliance on market forces and private expertise are the master keys to improving U.S. energy policy making. Conversely, planning proponents, although also recognizing the energy problems caused or aggravated by poorly-conceived planning, argue for designing and implementing far more detailed and comprehensive plans aimed at coordinating decisions made in all phases and sectors of the energy business.

The Federal Energy Office (FEO) and its successor, the Federal Energy Administration (FEA), were the first formal organizations explicitly charged with developing and coordinating a more comprehensive U.S. energy policy. A review of their performance casts considerable doubt upon the thesis that more detailed and comprehensive governmental planning offers the way out of the energy problems now facing the United States.

During the early months of the 1973–74 OAPEC embargo, the United States faced the very real danger of running short of oil.* Reacting both to this crude oil shortage and to an earlier shortage of refined petroleum products, Congress passed legislation instructing the President to assure the equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry including independent refiners, small refiners, non-branded independent marketers and among all users.[1]

The President assigned responsibility for implementing this directive to the newly-created Federal Energy Office.

The FEO responded by promulgating numerous allocation regulations, which though well-intentioned, nevertheless, on balance, actually complicated the nation's immediate oil supply problems. In December 1973, for example, the FEO issued regulations allocating gasoline supplies to service stations on a monthly basis, and allowing refiners and dealers to raise gasoline and number 2 heating oil prices to offset higher costs only once per month. Hence, many service stations closed before the end of the month because they had sold their entire allotment. And since gasoline prices could be raised at the start of a new month, a few dealers found it profitable to lock their pumps before the end of the month even though they still had some gasoline. As a result, severe end-of-the-month gasoline shortages often "miraculously" evaporated at the beginning of the new month once higher prices could be charged and new allotments were received.

Other FEO regulations were designed to force refiners with crude oil supplies greater than the industry average to sell some of their "surplus" to crude-poor competitors at a subsidized below-replacement cost price.

Footnotes at end of article.

These regulations had the perverse effect of discouraging both crude-short and crude-rich companies from importing oil in the midst of the OAPEC embargo. Specifically, these regulations penalized crude-short companies because each barrel of imported oil reduced the amount of "cheap" domestic crude that they were allowed to buy; crude-rich companies were penalized because each barrel of imported crude raised the amount of domestic oil that they were obliged to sell at a below-replacement-cost price. As a result, for each barrel of oil imported, inter-refinery crude oil allocation regulations meant reduced oil company profits. Nevertheless, despite strong financial incentives to reduce their oil imports, both crude-short and crude-rich refiners continued to import substantial quantities and thereby helped to alleviate U.S. oil shortages. This was not behavior one would have expected from greedy, socially irresponsible companies.

The petroleum shortages ended by May 1974. And at that time, Congress authorized the Federal Energy Administration to take over the duties of the Federal Energy Office. The FEA had two principal assignments: First, to implement policies aimed at reducing the United States' vulnerability to future petroleum embargoes by stimulating faster development of secure energy supplies and by discouraging growth in energy demands; and Second, to enforce petroleum price controls (established by the Cost of Living Council) and associated allocation regulations. Unfortunately, because they have discouraged companies from making some of the investments necessary to expand oil supplies, oil price controls have had the undesirable effect of increasing U.S. vulnerability to future embargoes.

Domestic crude oil prices began rising in early 1973. As part of its program to combat inflation, and to prevent owners and producers of previously-developed supplies from reaping windfall profits, the Cost of Living Council set ceiling prices on all crude oil classified as "old"—which the Council defined as oil from leaseholds producing prior to 1973. The CLC believed that this action would not for the most part lead to reduced production of old oil because the out-of-pocket cost of producing oil from most already-developed sources was far lower than the ceiling price. However, to assuage the tens of thousands of politically-powerful independent oil producers, Congress explicitly exempted from all price controls any oil produced from low-productivity stripper wells (i.e., wells producing less than 10 barrels per day). Stripper oil production costs were already near the ceiling price and rising sharply because of rapid price inflation of drilling equipment and supplies. Therefore, Congress reasoned in justifying the exemption, imposing price ceilings on these marginal fields would make it unprofitable to continue producing from them, and would also make it unprofitable to rework closed fields, and to make the investments necessary to boost output from stripper wells already in operation. Unless these marginal fields were exempted, therefore, effective price ceilings would discourage crude oil output, precisely at a time of tight supply, when an increase in output was most needed.

The Cost of Living Council also recognized that higher crude oil prices would encourage oil companies to expand greatly their investments for exploring, developing, and producing oil from new sources. Hence, the Council also exempted from the price ceilings "new" crude oil—defined as production from a leasehold above the level achieved in 1972. To provide additional incentives to develop new oil, producers were allowed to release a matching barrel of old oil from the price ceilings for every barrel of new oil they produced. The result of these exceptions for the stripper, new, and released oil was that 35–40 percent of all U.S.-produced crude oil was exempt from price controls during 1974–75.

Before the imposition of price controls, oil refiners paid prices for specified barrels of crude oil corresponding directly with their economic value. Thus, they typically paid premiums for higher gravity crudes, which yield proportionately more gasoline; for low-sulphur crudes, which are cheaper to refine and whose products contain fewer pollutants; and for crudes located relatively close to major refining and consuming centers. After the imposition of price controls, the price paid for a barrel of crude oil also depended on its classification as old, exempt, or foreign. Old oil was the cheapest—its average wellhead price having been fixed at $5.25 per barrel since late 1973. In sharp contrast, from October 1973 to October 1975 the cost of exempt domestic oil of similar quality has risen from about $6 to more than $13 per barrel.

Well before the start of the 1973–74 OAPEC oil embargo, it was evident that the price ceilings on old oil had been set far below market clearing levels. As shortages developed, crude-short refiners, desperate for refinery feed-stocks, began to bid-up the price of exempt crude oil. And desiring even more oil, they sought ways to circumvent the old oil price controls. According to reports appearing in the trade press prior to the OAPEC embargo, some succeeded by agreeing to tie together purchases of old and new oil from a given supplier: they bought old oil at the controlled price, but bought new oil at a price so high that the weighted average price for the total purchase rose to near the market clearing level.

Not surprisingly, U.S. petroleum suppliers became even scarcer during the OAPEC embargo. Realizing that producers of old oil would almost certainly require tie-in purchases in order to circumvent the price controls, the Federal Energy Office issued regulations freezing all old oil buyer-seller arrangements as of December 1, 1973. This ruling eliminated tie-in sales and thereby saved the controls on crude oil prices from total emasculation.

Some refiners process much greater proportions of "cheap" price-controlled old crude than others. To prevent these fortunate refiners from reaping vast windfall profits, the Federal Energy Office enforced differential ceilings on the prices charged for refined petroleum products. Specifically, each refiner could charge a maximum price determined by adding a cent-for-cent pass-through of all increased costs to the price it charged during a pre-embargo base period.

These pricing rules resulted in intercompany differences of as much as 12 cents per gallon in retail gasoline prices in the midst of the OAPEC embargo.

During the OAPEC embargo the shortages of all petroleum products permitted even high-cost refiners who processed relatively small amounts of the price-controlled old oil, to charge higher prices for their products without losing sales. However, once the embargo ended and the shortages eased, these high-cost companies confronted the dilemma of either maintaining higher prices and watching their sales plummet, or cutting prices and incurring huge losses. To prevent this, the Federal Energy Administration established inter-refinery allocation regulations requiring refiners with above industry-average old oil supplies to pay competitors with below industry-average old oil supplies $6–$8 per barrel for entitlements to refine their own old oil. As a result of this entitlements program, refiners with above industry-average old oil supplies have had to make payments totalling well over $1 billion in 1975 to their competitors. Requiring those firms that were prudent enough to develop domestic oil supplies to subsidize their less prudent competitors is a poor way of encouraging the needed development of additional domestic oil supplies. These subsidies would be unnecessary if crude oil price controls were abolished.

The Congressional mandate forcing the Federal Energy Administration to continue to enforce old oil price controls has caused two classes of problems. First, as long as prices for some domestically-produced petroleum are fixed at levels so low that demands far exceed supplies, the FEA must continue to enforce a variety of highly detailed regulations aimed at allocating available supplies "fairly." These allocation rules have cost the FEA millions of dollars to promulgate and enforce and the oil companies additional millions to implement. Far worse, since each group of consumers and refiners has a different definition of what constitutes a fair allocation of low-cost petroleum, all of the FEA's allocation regulations have precipitated rancorous public debates. Such a politically-charged atmosphere has not been conducive to passage of good energy policy legislation.

The second type of problem with old oil price controls is that, as implemented, they subsidize OPEC oil to the extent of $2 to $3 per barrel. The ultimate result of such a policy is an increased level of oil imports and, hence, an increase in the United States' vulnerability to future oil embargo threats. If below market-clearing prices are temporary, the resulting supply-demand distortions may not lead to costly additional domestic oil shortages. Unfortunately, petroleum price controls have not been temporary—they have been enforced almost continuously since 1971. The United States' rapidly worsening shortage of natural gas, which has been effectively price-controlled since the Federal Power Commission adopted area-wide price controls in 1960, offers graphic evidence of the disastrous consequences of using controls to enforce persistent below-market-clearing prices for an important type of energy. Natural gas shortages have grown progressively worse since 1970, which has forced a sharp growth in U.S. oil imports—the only immediately available natural gas substitute—and therefore has greatly increased the United States' vulnerability to oil embargoes. Likewise, the continuation of existing crude oil price controls will make it exceedingly difficult for the U.S. to reduce its oil import dependence, which also increases American vulnerability to future oil embargo threats.

The chief benefit claimed for oil price controls is that they are necessary to prevent oil companies from reaping windfall profits as a result of quintupled foreign oil prices. In view of the need for voluntary public support of energy conservation measures during the OAPEC embargo and the enormous public distrust of the oil industry, both Congress and the President concurred on the desirability of this goal. This was probably a proper policy goal as long as oil was in short supply because of the embargo, although even then objections could be raised to controls on oil profits. Most important, it placed the government in the difficult position of defining acceptable profit levels. Judged by the most common measure—the after-tax rate of return on equity investments—profits of most American oil companies were below the average for all U.S. industrial firms for the ten years prior to 1973. But even after oil company profits rose sharply in 1973 and 1974, they were only slightly higher than the average earned by all U.S. manufacturing. Moreover, oil profits began to fall off in the last quarter of 1974, and this trend accelerated during 1975. The fact that unusually high profits were earned for a period of less than two years is not sufficient to establish that the industry's profits are excessive and therefore must continue to be controlled.

Besides entailing complicated allocation regulations and giving rise to costly distortions in U.S. oil supplies and demands,

the oil price controls failed to achieve their main goal of preventing temporary windfall profits resulting from the OAPEC embargo and quintupled foreign oil prices. Price controls failed to check the rise in the oil companies' immediate post-embargo profits for two principal reasons. First, large inventory profits were realized when foreign crude bought at pre-embargo world prices was sold at sharply high post-embargo world prices. Price controls on domestically produced crude oil could not limit this one-time source of approximately half the higher oil industry profits attributable to the embargo. Second, because they did not wish to weaken the incentive to find and develop new domestic oil sources, the designers of the price controls wisely exempted 35 to 40 percent of all domestic crude oil. The embargo-caused oil shortage promptly pushed prices of exempt domestic crude oil from less than $6 per barrel on the eve of the embargo to nearly $10 by late December 1973.

There have been no shortages in petroleum supplies, from both domestic and foreign sources, in the United States since the end of the OAPEC embargo in late spring of 1975. Hence, there remains little justification for the Federal Energy Administration to continue the nearly impossible (and extremely expensive) task of assuring equitable distribution of petroleum supplies at equitable costs. The FEA should instead concern itself with reducing the United States' vulnerability to future petroleum embargoes. Unfortunately, because the FEA-enforced price controls have promoted increased petroleum demands while discouraging additions to domestic supplies, FEA policies have thereby actually increased American vulnerability to future embargoes.

An examination of the emergency allocation and petroleum price controls enforced by the Federal Energy Office and the Federal Energy Administration offers little support for the contention that more detailed and comprehensive governmental planning will alleviate American energy problems. The experience of recent U.S. energy policy initiatives suggests, instead, that to be effective, future energy policy planning must take into account five lessons relating to recent energy problems:

1. First, we must determine the objectives of U.S. energy policy precisely, and—to prevent policy-makers from being overwhelmed by too many conflicting considerations—ruthlessly exclude all extraneous issues. For this purpose, four primary energy-related objectives deserve consideration.

(a) *Guaranteeing access to secure energy supplies.* The principal-threat to the United States' energy security is the demonstrated power of a group of large oil exporters to embargo oil sales. The danger will persist as long as any coalition of large oil exporters has sufficient cohesion to maintain monopoly power and the U.S. remains a substantial oil importer. Hence, the oil security threat can only be reduced by policies designed either to foster disintegration of the economic and political ties presently binding the large oil exporters, or—and this would have the same effect—to encourage substantial increases to domestic energy production and substantial reductions in U.S. oil demands.

(b) *Reducing high energy resource costs.* By reducing the productive resources that its citizens consumed in obtaining energy, the United States can have more resources available for producing other socially-desirable goods and services. Policies should therefore be designed to facilitate increased-production of the relatively cheaper (in resource costs) domestic fossil fuels—Alaskan and Outer Continental Shelf crude oil, natural gas, and coal—rather than increased commercial production of much more expensive fuels like oil shale, tar sands, and coal synthetics.

(c) Limiting environmental degradation. Some degradation of the environment or of public health and safety is a by-product of the production, transmission, and consumption of all types of energy. However, different fuels produce large differences in environmental degradation. At present, increased production and consumption of natural gas and crude oil places the fewest demands on the environment and public health, and their production and consumption should therefore be encouraged.

(d) *Limiting undesirable changes in the distribution of income.* Prices of all fuels soared in the aftermath of the OAPEC embargo. This resulted in a large transfer of income and wealth from energy consumers to the owners (both domestic and foreign) of low-cost energy supplies. The largest single portion of this income and wealth transfer goes to the governments of the oil exporting countries. Except for adopting measures that may ultimately lead to either the dissolution of the oil exporting countries' cartel or to reduced consumption of imported oil, the United States is powerless to reduce this part of the energy-related income and wealth transfer.

Because of higher corporate profit taxes, lease bonus payments, and royalties, a sizeable portion of the higher prices paid for domestic energy already goes into federal and state treasuries. Nevertheless, post-embargo high energy prices have led and will continue to lead to income and wealth transfers totalling several billion dollars annually to the owners of low-cost energy reserves. To reduce the size of this income and wealth transfer, Congress might consider introducing higher taxes on energy producers and rebating the proceeds to consumers via income tax cuts. However, considerable study should precede any such action and care taken to insure that these tax hikes do not discourage new domestic production.

All energy policy proposals ought to be judged according to how much they are likely to advance or hinder achieving each of these goals. Unfortunately, most policies will almost certainly yield mixed results. For example, eliminating all price controls on crude oil and natural gas will encourage higher production of both fuels, and in turn, should enhance U.S. energy security, reduce the resource cost (but not the price paid by consumers), assure the United States' energy supply, and, since these are the cleanest burning fossil fuels, reduce environmental damage. However, abolishing price controls will increase wealth and income transfers to petroleum owners and producers. Energy policymakers must weigh these offsetting benefits and costs. It is my view at present, that obtaining secure and lower resource cost energy supplies deserves more weight than the problems associated with environmental degradation and the alleged "worsening" domestic income distribution.

2. Energy policies must be flexible in the sense that they either adjust automatically or with modest administrative input to substantial changes in underlying economic, political, and technological facts and circumstances. Such flexibility requires that policies must, of necessity, rely on market forces and private enterprise.

Policy flexibility is important, because at all times knowledge of changing circumstances is uncertain and ambiguous. If specific energy policies cannot adjust to these underlying changes, great inefficiencies will inevitably result. Furthermore, the combination of factual uncertainty with uncertainty about the actual consequences of policy changes, makes it unlikely that policymakers can successfully fine-tune energy policy.

The importance of flexible policies whose success does not depend on specific events is readily deducted from the United States' unfortunate experience with natural gas price controls. The controls were imposed primarily to prevent an income transfer from consumers to natural gas owners and producers. There was no immediate harm, because natural gas supplies were relatively abundant. However, as time passed, the demand for low-priced, clean-burning natural gas increased, but, as it was becoming less profitable, new exploration and development began to diminish. The result has been ever-worsening shortages, combined with rapidly-climbing prices of natural gas. The cost of the shortages to the American economy, in terms of both reduced oil security and unnecessarily high energy resource costs, soared in the aftermath of the OAPEC embargo. Recent U.S. experience with natural gas and crude oil price controls prompts me to suggest that all such controls be avoided in the future.

3. The long time lags and massive investments necessary to develop new energy supplies greatly complicate the policymaker's job and increase the likelihood of costly planning failures. Important examples of the large investments and long time lags include the following:

(a) It takes ten years and more than $1 billion to plan and install a single new nuclear-powered electricity generating plant; construction of a new uranium enriching plant will take a long and, depending on its design, could cost more than $6 billion.

(b) Oil companies have spent more than $12 billion since 1970 to acquire leases to Outer Continental Shelf (OCS) lands. Exploration and development of newly leased OCS lands takes three to six years; the exploration-development time lag has been more than ten years on the Alaskan North Slope.

(c) The investments necessary to develop oil shale or to gasify coal commercially are well over $1 billion per plant and will take at least ten years to complete.

In sum, investment decisions made today will determine the magnitude of the United States's domestic energy supplies in 1985 and whether those supplies will be obtained at wastefully high costs. The prospect that future domestic energy supplies will be inadequate and/or unnecessarily costly becomes more likely if highly detailed energy planning is done by public officials who are either ignorant about these economic and technical constraints or are forced to downplay their importance because of the need to accommodate political pressures.

4. Unnecessary indecision or ambiguity by policymakers creates costly uncertainty for energy consumers and producers, and frequent changes in estabilshed energy policies can lead to obsolescence of some large capital investments.

The long delay in receiving commercial quantities of oil from Prudoe Bay and the unnecessary costs borne by automakers and electric utilities—because unfeasible time tables for meeting air emission standards were relaxed only at the last minute—illustrate the costly consequences of energy policymakers' indecision and ambiguity. In 1975 the Federal Energy Administration promulgated regulations designed to force owners of 32 oil burning electricity generating plants to spend an estimated $260 million to convert to coal. Earlier, owners of many of these plants had spent millions switching from coal to oil in order to satisfy federal clean air standards. The switch from coal to oil and back to coal graphically illustrates how policy changes can create unnecessary obsolescence and waste.

While unnecessary policy changes should be avoided, that is not an argument for maintaining the status quo at any and all costs. Once available evidence suggests that an existing energy policy has failed, it should be introduced. On the other hand, because new policies frequently have unintended deleterious consequences, some preliminary testing is desirable whenever feasible.

5. The fifth lesson is that strong Presidential leadership is essential if the United

States is to develop a set of flexible policies designed to achieve the four energy goals. Presidential leadership is necessary because regional differences have hopelessly fragmented Congress on most energy policy issues: most important, citizens from oil producing States tend to endorse policies that promote higher domestic oil prices and lower federal oil taxes, while citizens from consumer states (especially energy-short New England) argue vociferously for the opposite. Few Congressmen can be expected to possess sufficient statesmanship to oppose these regional political realities. Thus, it is fatuous to expect that any Congress—even one heavily dominated by one political party—will take the lead in developing and passing a tough energy program that does not pander to popular political interests.

The Congress' recent flirtation with politically popular proposals to establish a federal oil and gas company illustrates this problem.

Senator Adlai Stevenson summarized the principal rationale behind most proposals to establish a federal company, which would participate in one or more phases of the petroleum business, when he stated that Americans could no longer "afford to turn sole responsibility for [the] price and supply of natural gas and oil over to the very same companies which have already used the gasoline shortage they helped to create to drive their competition out of business. . . ." [2] In the first place, the oil companies did not create the gasoline shortage (indeed, there has been no such shortage since May 1974 when the OAPEC embargo was over). Secondly, no evidence exists that any substantial number of competitiors have left any segment of the oil business. This casts serious doubt upon the wisdom of my policies based on these arguments.[3] Nevertheless, since the proposals to establish a federal oil and gas company are becoming increasingly popular, they merit a more detailed criticism.

Senator Stevenson's legislation to create a Federal Oil and Gas Company (FOGCO) proposed granting it extensive powers:

The Corporation would have access to publicly owned gas and oil rights on Federal lands, as well as the power to acquire similar rights on private lands. It could enter into the full range of activities necessary for the exploration, development, refining, transportation and marketing of petroleum and gas products. . . .

The Corporation would have the authority to issue bonds to cover its indebtedness, and Federal appropriations in the amount of $50 million per year would be authorized for the first ten years.[4]

And he defined the purpose of this legislation as being ". . . not . . . to provide a forerunner for nationalizing the American petroleum industry. The purpose is to develop public resources—and preserve the free enterprise system in the petroleum industry. But private oil companies need a spur, a yardstick, an incentive for competition. This Corporation would provide that yardstick." [5]

FOGCO proponents maintain that it is not a precursor to nationalization of the petroleum industry but rather an attempt to stimulate competition. Whatever the announced intention, there can be no doubt that creation of a FOGCO-type public energy company would represent a fundamental change in government-corporate relations. Before legislating such a dramatic change it would be prudent for Congress to make a serious effort to assess the likely consequences. Two examples suffice to illustrate potential problems. First, are the FOGCO advocates correct when they argue that it "would give the Nation a 'yardstick' against which to judge the performance of the private oil companies?" [6] The Chairman of the Board of Standard Oil of Indiana gives a persuasive answer:

". . . the major fallacy in the use of the 'yardstick' concept is that a yardstick is employed to measure similar entities. With no taxes to pay, no leases to purchase, no stockholders to reward, and the choice of government acreage on which to operate, customary business measurements would be completely lacking in the case of a Federal Oil and Gas Corporation. Any so-called 'yardstick' thus established would be totally artificial and without meaning." [7]

Second, could a government-owned and managed oil company hope to be as efficient as its private counterparts? Most FOGCO critics answer no and point to the present problems of two widely criticized public enterprises: Amtrak and the U.S. Postal Service. This analogy is probably inappropriate—at their creation both of these public concerns were saddled with an obsolete physical plant and the responsibility for providing numerous money-losing services. Presumably FOGCO would not be so encumbered.

Much more serious is the prospect that FOGCO's management is likely to discover that it must consider the political ramifications of what should be merely business decisions. This is likely to create severe administrative problems in a business that is already risky and requires high levels of technical expertise. For example, will FOGCO's management feel free to risk hundreds of millions of dollars on necessary wildcat exploration when its performance is being monitored continuously by Congress? Also, will Congress and the President allow FOGCO to operate without considering certain political realities; e.g., the necessity of making investments in several states, not just in those few where oil investments are likely to prove most promising? No doubt a federal energy company could be designed so that it would not be subject to these and similar pressures. However, in light of the fact that recent U.S. energy policy-making has been highly politicized, I have serious doubts that FOGCO would be so designed.

In conclusion, Congress cannot be expected to ignore political realities and draft a comprehensive, well-designed, and flexible energy policy. Fortunately, President Ford has displayed some inclination to do so. Moreover, he apparently realizes, correctly, that decontrolling prices of domestic crude oil and natural gas is necessary to the success of any successful program. Unfortunately, the President lacks the power to force such a program through a reluctant Congress.

FOOTNOTES

[1] Public Law 93–159 (27 November 1973).
[2] *Congressional Record*, 1 October 1973, p. 32162.
[3] For more elaboration see Richard B. Mancke, *Squeaking By: U.S. Energy Policy Since the Embargo* (New York: Columbia University Press, forthcoming 1976), Chapter 7.
[4] *Congressional Record*, 7 November 1973, p. 36116.
[5] *Ibid.*
[6] *Ibid.*
[7] Statement of John E. Swearingen before the U.S. Senate Commerce Committee (5 February 1974), p. 7.

Mr. GARN. Mr. President, the primary regulator of energy in the United States today is, of course, the Federal Energy Administration. Recent news stories have reported that the FEA is very good at one function, growing, but its record in energy regulation is less satisfactory. For instance, last July, there was a great outcry over the simultaneous increase in gasoline prices by "all" the major oil companies, just in time for the 4th of July weekend. Now as a matter of fact, not all the companies did raise their prices, but that made an inconvenient story, and so was ignored. Most did, of course, and much was made about the conspiracy and lack of competition. Now the explanation for this concerted action was clearly the FEA, but that truth has had a hard time making itself known. I ask unanimous consent that an editorial from the Wall Street Journal be printed in the Record at this point, explaining FEA's role in the whole fiasco. I think it underlines the failure of regulatory policy, both as a theoretical and a practical matter.

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

THE GREAT GASOLINE CONSPIRACY

The sudden sharp rise in the demand for gasoline, plus the decline in gasoline stocks, plus the almost simultaneous announcement of gasoline price boosts by most refiners on July 1—all this adds up, in the minds of some Washington politicos, to a great gasoline conspiracy. Senator Henry Jackson, who wants to be President, and Senator Adlai Stevenson, who wants to be President, have announced Senate subcommittee investigations to find out what's going on.

Before they've heard the first witness, though, both gentlemen have announced their findings. Senator Jackson says, "Clearly the oil companies have manufactured a shortage." Senator Stevenson says this is "a classic study in the power of the major oil companies to reverse the normal rules of supply and demand." The prejudgments are a pity, for if the Senators could blot them out of their minds, their hearings would purely prove illuminating and educational.

Take the first question: Why were the price boosts simultaneous? Because under FEA regulations companies can increase prices to pass through costs, but "non-products" costs may be recovered only in the month following the one in which they are incurred. Unlike the cost of crude oil, they cannot be "banked" for recovery in future months when market conditions may be more favorable. In fact recently the companies have been having trouble making price increases stick, so if they are to have any chance to recover non-product costs they have to start as soon as possible. They need no collusion to arrive at the first of the month as the date to post increases. In short, the answer to question one is: The FEA.

On to question two: Why have gasoline stocks dropped so suddenly? Well, the FEA has an obscure rule that requires an oil company to charge everyone in a "class" of customers the same price regardless of geographical location. Before formation of the FEA, a company short on gasoline in California would call other companies and try to buy some, or perhaps swap some for fuel oil. For the right price, a company long in gasoline would sell some to the company that was short.

This no longer happens, because if the second company sold California gasoline at a premium price, it would have to raise its price to similar customers nation-wide. This would mean a loss of market share in other areas, and the premium sale is not worthwhile. So the telephone calls have stopped. It was in these calls, when someone started to find that no one else was long on gasoline, that oil men got the first warning of an impending shortage. Without the calls, a shortage can come as a surprise. So to question two, the answer is: The FEA.

On to question three: Why aren't the nation's refiners, who are operating at less than 90% of capacity, importing more crude oil to make more gasoline? Well, imported crude costs $13, and the FEA will not allow refiners to pass along this cost until the next month.

If the refiner is making gasoline from a mix of $5.25 price-controlled oil and $13 imported oil, more imported oil will push up unit costs without any immediate increase in the selling price. Perhaps it would be able to "recover" these costs by higher prices later, but then again maybe not. So the answer to question three is: The FEA.

Now, to give credit where it's due, the FEA runs around frantically writing new regulations trying to undo the damage its past regulations have done. Last week, for example, FEA head Frank Zarb was talking about allowing geographical differentials. But by now, we should be learning that the next regulation will only do something else, that the oil industry cannot be run from Washington without benefit of price signals. That the way to have the oil industry produce gasoline most efficiently, which is to say at the lowest price, is for the government to get out of its way.

Senators Jackson and Stevenson will find, if they conduct fair and honest hearings, that the spot gasoline shortages the nation now faces result not from conspiracy, but from the very controls they and their congressional colleagues created. Once they make this discovery, there no doubt will be public apologies all around to the oil companies and no further attempt to extend controls past the August 31 expiration date. The great gasoline conspiracy was unwittingly concocted on Capitol Hill.

Mr. GARN. To conclude, Mr. President, I would like to say a few words about public land management and its effect on energy development, particularly in the West. A few weeks ago, my colleague from Kentucky, Senator FORD, bragged about the coal production from his State, and asked why we could not do as well. The reason, as I explained to him, is that in Kentucky, the coal is located on private land, and its owner do not need to ask for permission to mine it. In Utah by contrast, most of the coal is on public land, and recent coal leasing policies have not been conducive to development. For several years, the Department of Interior has had in effect a moratorium on coal leases, at the very time when our dependence on foreign oil is increasing. It is well known within the Government, and the Congress, that coal provides a workable alternative to oil in many cases, particularly in electricity generation. And yet, we have followed a practice of refusing to issue much-needed coal leases.

Just about 2 months ago, Interior Secretary Tom Kleppe announced the adoption of a new coal-leasing policy, but even so, it will be some years before coal can be produced under the policy, because of the various levels of review any prospective mines will have to go through. These levels include environmental review, but I do not want anyone to think that that is all that will be involved. The process is horrendous, and even yet we do not see exactly how it will work.

Concurrently, the Federal Government is following a policy of withdrawing large tracts of Federal land from energy development, as National Parks, National Forests, or Wilderness Areas. Two young analysts at the Department of the Interior have, on their own, evaluated these trends, and on another occasion I took the opportunity of putting their findings in the RECORD. Gary Bennethum and L. Courtland Lee found that "through governmental actions we have firmly withdrawn nearly 400 million acres from the leasing laws. In addition, over 100 million acres for the mining law and 70 million acres for the leasing laws are encumbered or are being managed in such a way as to constitute a de facto withdrawal from mineral development.

"This means that, for the mining law, mineral exploration and development is specifically prevented or discouraged in an area the size of the States of California, Arizona, Washington, Oregon, Nevada, Utah, Idaho, and one-half of Colorado."

Mr. President, I submit that that is unacceptable. Because of the importance of this article, I ask unanimous consent that it again be printed in the RECORD.

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

IS OUR ACCOUNT OVERDRAWN?

(By Gary Bennethum and L. Courtland Lee)

[Figures and tables referred to not printed in the RECORD]

Over the years, withdrawals of public land from operation of the mineral laws have taken many forms and been initiated by many interests with no overall accounting of the withdrawals. Withdrawals have been encouraged with little regard for their cumulative effect. The key question is: Have we withdrawn so much land from mineral exploration and development as to seriously affect the long-term mineral position of our country?

With increasing awareness of the importance of mineral resources to the vitality and security of an individual nation, considerable attention is focusing on the availability of these resources on public land. There is a general feeling, particularly in the mining community, that following a half decade of acute interest in the environment coupled with governmental shortsightedness of the unique problems associated with development of mineral resources, the mineral disposal laws have been made all but meaningless by piecemeal withdrawal, both legislative and administrative, on increasing amounts of public land.

The power to withdraw lands from the operation of the public land laws, including the Mining Laws of 1872 and the 1920 Mineral Leasing Act, is one of the most important governmental powers affecting the mining industry. The mineral potential of an area is of little value if the area has been put off limits to mineral exploration and development. Yet, withdrawals are one of the least appreciated and understood government powers.

The withdrawal process involves complex inter-relationships between Congress and the executive branch of government. It is so fundamental that our founding fathers saw fit to give to the Congress the power over the disposition of the public lands. Article IV of the Constitution states that Congress has the power to dispose and to make rules respecting the Territory belonging to the U.S.

Public land withdrawals made in three ways

In more recent times the executive has asserted, the Congress has acquiesced, an authority to make withdrawals without specific stautory authorization. Basically, withdrawals (and reservations) of public lands are accomplished in one of three ways: (1) withdrawal of specific lands by an Act of Congress, (2) withdrawal by the executive pursuant to specific Congressional delegations, and (3) withdrawals by the executive based on an asserted inherent nonstatutory power.

Aware of the need for information in this area, the writers' undertook an independent analysis in order to determine the extent of the withdrawal of land from operation of the mineral laws. To better understand the results of this study, we have considered all the publicly owned land of the United States as a mineral-land bank account. Lands which have been put off limits to mineral exploration can no longer be considered as assets in our account. History has shown that, after lands have been withdrawn for certain uses, only rarely are they reopened by a revocation of the withdrawal specifically to allow mineral exploration and development to again occur. Realistically, nothing short of a national emergency will provide the incentive for reopening many of these withdrawn lands to mineral development. In the vast majority of cases the lands were withdrawn without any realistic evaluation of their mineral potential. Thus, the minerals in these lands cannot be considered to be available in a national emergency since there is no way of knowing which withdrawn lands should come back into our account should a serious shortage of a mineral commodity occur. Also, long lead times and the uncertainty of mineral exploration and development seriously limit the contribution these withdrawn lands could make.

This account, which contains over one-third of the nation's onshore land with its associated minerals, is owned by all the people of the United States. We have used acres of lands as the medium of exchange in this account and, for simplicity, we have assumed that land with high mineral potential has the same value as land with low mineral development potential. As a practical matter, of course, mineral deposits are not distributed randomly, but are often associated with certain geologic conditions. Thus, one could effectively eliminate all future domestic copper production by withdrawing a few relatively small areas where certain geologic conditions exist.

Withdrawals initiated by many interests

Over the years, access to this land for mineral exploration has been restricted or precluded through the removal of lands from operation of the mineral laws. These actions, or withdrawals, have taken many forms and have been initiated by many interests with the net effect of withdrawing from our account areas for mineral exploration and development. In those areas where lands once withdrawn have been reopened to operation of the public land laws, in actions called revocations, they have been considered to be deposits to our mineral land account.

The key question, which has tremendous national and international implications, is—have we withdrawn so much land from mineral exploration and development as to seriously affect the long term mineral position of our country? Have we overdrawn our account and thereby mortgaged our future to international cartels made up of supplier countries who will be able to band together to control key mineral raw materials?

Two basic laws cover mineral disposal

In order for anyone to answer these crucial questions, we must have some idea of the status of our minerals land account. In other words, we need a national audit. We have attempted to provide this audit by considering what has been formally withdrawn from operation of the mineral laws, where mineral exploration and development have been precluded, and what has been removed through executive and legislative actions which have the effect of *de facto* or "in fact" withdrawals, where access to the lands for exploration and development is so restricted that "as a practical matter" they are also withdrawn. These "in fact" exclusions are the result of conditions which create such a disincentive to exploration and cloud the mineral title to such an extent that making the necessary large investments for mineral development is unacceptably risky. Both the withdrawals by law and the withdrawals in fact constitute debits to our account. If the net withdrawals are subtracted from our initial assets, what is

left is the acres of land theoretically open to the mineral laws.

For the vast majority of mineral resources on public lands, mineral disposal, including access for exploration and development, is provided under two basic laws: the Mining Law of 1872 and the Mineral Leasing Act of 1920. The Mining Law of 1872, hereafter referred to as the Mining Law, is still in effect on public domain lands, which are those lands that have never passed out of federal ownership. The Mining Law applies to all minerals exclusive of oil, gas, coal, phosphate, sodium, oil shale, sulfur, potash and certain other hydrocarbons and nonmetallics which are provided for under the Mineral Leasing Act of 1920.

Mineral disposal on all lands which have been acquired by the federal government is made under the Acquired Lands Act of 1947. Acquired lands are not considered public domain. Disposition of geothermal steam is made according to the Geothermal Steam Act of 1970. Not considered here are common variety minerals which are mostly used for construction purposes and are disposed of by the Material Sales Act of 1947 as amended by the Common Varieties Act of 1955. Hereafter, the term "mineral leasing laws" will include the Mineral Leasing Act of 1970, as amended, the Acquired Lands Act of 1947 and the Geothermal Steam Act. The term mineral laws will refer to both the Mining Law of 1872 and mineral leasing laws.

Over 700 million acres subject to Mining Law

Due to the guaranteed access under the location patent system of the Mining Law of 1872 and the discretionary authority resting with the Secretary of the Interior to issue leases under the leasing laws, the two laws were dealt with separately in our study. The original assets in our account, prior to accounting for withdrawals and deposits (revocations), are shown in table 1. As of 1974, we had 824 million acres of land theoretically subject to the leasing laws and 742 million acres subject to the Mining Law, exclusive of withdrawn land.

In addition to presenting for the first time an overall audit of the total account, we have examined the history of some of the major withdrawal categories and the recent trends in executive withdrawals. To do this we analyzed all the public land orders published between 1964 and 1974 which specifically withdrew or opened public land to the mineral laws. In taking this approach, we have attempted to focus attention on what has been happening to our account in recent years and what our balance presently is.

OVERVIEW OF THE TOTAL ACCOUNT

If all the withdrawals "bylaw" and withdrawals "in fact" are subtracted from our total assets we can determine fairly accurately what our present situation is. Figs. 1 and 2 present the startling results of this analysis for the Mining Law and the mineral leasing laws, respectively. We have included withdrawals made in all three ways: (1) by an Act of Congress; (2) by executive action pursuant to general authority delegated by Congress; and (3) by the executive's inherent non-statutory withdrawal authority. Each of the major withdrawal categories in figs. 1 and 2 will be discussed later in more detail.

Due to the constantly changing nature of our account, a fixed point in time had to be chosen in order to make a comparison. The year 1968 was chosen because: (1) it ushered in the new wave of environmental concern, and (2) withdrawal activity was fairly constant in the previous years. Summaries of all withdrawals have been made for 1968 and 1974 to focus on the effect of recent withdrawals on our account.

Wherever possible, overlapping withdrawals have been eliminated to avoid double accounting. Overlapping is surprisingly slight, probably due in part to executive agencies' desire to maintain their own authority over lands they administer.

However, where overlapping withdrawals have occurred, for example, between military reserves and game ranges, or roadless areas and Alaskan lands, they have been eliminated. Some administrative and recreation sites may overlap the roadless areas category and proposed BLM primitive areas overlap some Classification and Multiple Use Act withdrawals, but these have been corrected to the maximum extent possible. Also, acreages under mineral lease, 63.0 million in 1968 and 73.8 million in 1974, may overlap to some extent the withdrawn categories. Mineral leases issued prior to any withdrawal remain in force for at least the primary term of the lease (usually 10 years for oil and gas and 20 years for other leasable minerals). The vast majority of these leases, however, would be located in other than withdrawn areas and have therefore been included as a separate category.

Mining law

In fig. 1 for the Mining Law, we have arranged with withdrawal categories in order of descending authority and effectiveness. The National Parks system containing lands specifically withdrawn by Congress, withdrawals for military reservations, and state selections are made under firm statutory authority. Of similar authority, but more recent, are specific categories of legislative segregation under the Wilderness Act, Wild and Scenic Rivers Act, and the Alaska Native Claims Settlement Act (ANCSA), and the Classification and Multiple Use Act (C&MUA). Of somewhat lesser authority or effectiveness are certain executive withdrawals such as the utility corridor, oil shale withdrawals, and proposed withdrawals. Under Department of the Interior procedures, approval of a request to file a withdrawal application segregates the land from the operation of the public land laws. Thus, although not officially withdrawn, since no withdrawal notice is published in the Federal Register, the lands are effectively removed from the mineral laws. There are cases where such withdrawal applications have remained in effect for decades without any withdrawal notice being published.

In 1968, only about 17 percent of the 740 million acres of public domain in our original account was withdrawn from operation of the Mining Law. The remaining land was theoretically open to mineral exploration and development but was encumbered by existing leases and an estimated 10 million unpatented mining claims. These unpatented claims have an impact on the availability of the lands for mineral exploration and development. Due to the impossibility of checking the validity of outstanding mining claims, we have ignored this complication affecting the remaining public domain and have assumed that existing unpatented mining claims have no affect on our account.

In 1974 approximately 53 percent of our original assets were withdrawn from the Mining Law. An additional 14 percent is included in *dc facto* withdrawals. In some of these areas, one could theoretically explore for and develop a mineral deposit if no vehicular equipment is used or if certain other "restrictive" conditions are met. In other areas, mining claims are contested immediately, thus affording no opportunity to perfect a discovery. The test of whether or not a *de facto* withdrawal exists obviously cannot be based on the superficial determination of the existence of specific legislation or a public land order affecting the lands. But rather it must be the "real world" test of whether or not access for discovery and tenure after discovery are sufficient to justify capital risk taking.

In 1974 the total acreage completely or partially (e.g., nonmetalliferous only) withdrawn from the Mining Law amounted to 67 percent or two thirds of all public lands. What is perhaps even more alarming is the fact that the cumulative effect of this situation has occurred without the knowledge of government.

Leasing laws

Fig. 2 shows the situation for the mineral leasing laws. We have again arranged the categories in descending order of authority and effectiveness. The basis for the ranking is the certainty of the withdrawal authority, how long it has been in effect, and how effectively the areas have been withdrawn from our account.

Unlike the Mining Law, Congress included specific provisions in the mineral leasing laws and their amendments which removed certain classes of lands from mineral leasing. Thus, National Parks and Monuments and the Naval petroleum and oil shale reserves are excluded from the coverage of the laws. There are some exceptions here which will be discussed in more detail later. Withdrawals pursuant to state selection have long standing authority and, therefore, rank rather high on our list; most of this land is in Alaska. More recent legislation such as ANCSA, the Wilderness Act, and the Wild and Scenic Rivers Act provide specific statutory authority for withdrawing lands from the leasing laws. However, future congressional action will further define the areas to be withdrawn so we have rated these lower in our chart.

Following the legislatively authorized withdrawals we have placed the executive withdrawals such as the utility corridor, oil shale and game range wtihdrawals. The latter are specifically closed to oil and gas leasing by regulation but leasing may be allowed where drainage occurs. In addition, there are classes of land where the mineral leasing agency, the Bureau of Land Management (BLM), must get the surface administering agencies' consent before any lease is issued. In certain cases, published policy, as in the public land order for the utility corridor and oil shale withdrawals, precludes mineral leasing. In other cases, it is internal agency policy not to consent to mineral leasing, as in the Forest Service's roadless areas. The result on our account is the same and these actions constitute *de facto* or "in fact" withdrawals.

Power site withdrawals constitute another class of *de facto* withdrawal. In some power site withdrawals, leasing may occur; however, should an area be flooded, no compensation will be made to the lessee. Who will invest exploration and development capital to explore and develop a mine in an area which could be flooded with no compensation for the lessee? One of the lowest withdrawal categories on fig. 2 is the BLM primitive and roadless areas. These are placed at the bottom not because their impact is the least but because their legal authority is the most uncertain.

In 1968 about 17 percent of the 824 million acres theoretically available were withdrawn from the leasing laws. Another 63 million acres were encumbered by existing mineral leases, mostly for oil and gas development. Leasing in already leased areas may be allowed but the physical impossibility of developing more than one mineral deposit in the same area, especially where non oil and gas leases exist, severely restricts new leasing in many of these areas. They have, therefore, been categorized as restricted for new mineral leasing recognizing that this restriction is more serious where non oil and gas leases or a producing oil and gas field exist.

The remaining acreage, although encumbered with mining claims, was theoretically open to mineral leasing.

Between 1968 and 1974 the situation for mineral leasing changed dramatically. For one thing, surface managing agencies developed and implemented land use planning systems. Also, significant new legislation was enacted which severely impacted the availability of lands for mineral leasing. The result is that as of 1974, 64 percent of our

initial assets have been withdrawn from our account. Another 9 percent is mildly to severely restricted by already existing leases. The remaining 27 percent is open but subject to land use planning, which may zone out an area for mineral leasing because of "unacceptable environmental" impacts or some other reason.

Because leasing is discretionary, it is impossible to determine what percentage of our remaining lands is actually available. It is logical, and indeed the case, that where areas have been withdrawn "to protect them from the Mining Law" such areas would also not be leased for many forms of non oil and gas mineral development under the leasing laws.

Unfortunately, it is almost impossible to accurately survey all of the surface managing agencies to determine how their discretion would be exercised. In order to calculate exactly what remains open, such data should be analyzed to determine the cumulative effect of these decisions on the remaining lands in our account.

Even without this data, the fact remains that 73 percent of the land in our account is totally or partially withdrawn or restricted from the operation of the mineral leasing laws. The main reason this situation has occurred is the lack of any governmental mechanism for assessing the cumulative effect of individual withdrawal decisions.

CONGRESSIONALLY DIRECTED WITHDRAWALS

Withdrawals and reservations of public lands were initiated shortly after the founding of our country. The Congress enacted specific statutes authorizing the President to withdraw lands for military reservations, townsites, trading posts, etc. During this period, Congress carefully controlled the specific delegations of withdrawal authority to the executive branch.

The establishment of National Parks in 1872 and National Forests in 1891, the 1902 Reclamation Act and the 1906 Antiquities Act all reflected Congress' intent in designating specific areas or general classes of public lands for specific purposes. Under these acts, Congress withdrew specific lands or delegated withdrawal authority to administrative agencies pursuant to criteria and standards established by Congress.

The following discussions relate to the more important congressionally directed withdrawal categories in fig. 1 and 2.

Park system

Since the creation of Yellowstone Park in 1872, the withdrawal of public lands for National Parks has been usually undertaken through enactment of specific legislation by Congress. In most cases, Congress has provided that the parks be withdrawn from the mineral laws. These withdrawals are the highest form of withdrawal authority and represent one of the most legitimate reasons for withdrawing land from our mineral account.

The National Parks are administered by the Park Service, which also administers lands withdrawn for national monuments. National monuments are sometimes established by congressional action but usually are established through executive initiated withdrawals. Many national monuments are withdrawn under the 1906 Antiquities Act which authorizes the President to establish places of historic or scientific value as national monuments. National monuments are generally closed to the Mining Law, and leasing activity within national monuments is prohibited under the 1920 Mineral Leasing Act; thus, mining in national monuments is precluded unless expressly authorized by an act of Congress. Where Congress has created national monuments it has expressly authorized mining in a few instances. Glacier Bay National Monument in Alaska is an example.

Overall, about 14.6 million acres of public domain in the National Parks system are withdrawn from the Mining Law. This figure is exclusive of areas within Mount McKinley National Park, Death Valley, Glacier Bay, and Organ Pipe National Monuments, which are partially open to the Mining Law.

About 24.6 million acres of public domain and acquired lands have been taken out of our mineral leasing account for the National Parks system.

The Park Service also administers National Recreation Areas (NRA). Most of these are created by the executives on lands already withdrawn for reclamation purposes. In several cases, controlled mineral leasing may be allowed in NRA's. Thus, in the Lake Mead NRA and the Whiskeytown-Shasta-Trinity NRA, mineral leasing may be allowed under special conditions and regulations which the Secretary of the Interior prescribes. Most of the remaining NRA's are managed cooperatively between the Park Service and the Bureau of Reclamation. And, except for the few areas mentioned, they constitute *de facto* withdrawals from our account. However, these withdrawals are not included in the National Parks statistic in fig. 1 and 2. They are accounted for under the reclamation withdrawal category.

Military withdrawals

The history of public lands withdrawals for military purposes reflects all of the complex interrelationships between the executive and legislative branches of government in the area of withdrawal authority. Prior to 1909 the executive freely withdrew public lands to establish military reservations and bases. But in 1909, President Taft withdrew large areas of petroleum reserves which later became Navy Petroleum Reserves. This action lit the flames of controversy within the legislative branch of government and resulted in the only law ever enacted by Congress which dealt with the general withdrawal power of the executive. The General Withdrawal Act of 1910 or the Pickett Act.

Subsequent to passage of the Pickett Act, some of the lands previously withdrawn by executive order were rewithdrawn under the authority of this act. But even after the Pickett Act no effective statutory authority existed for controlling military withdrawals since the executive frequently used executive orders and public land orders to effect withdrawals without citing this act as authority. To remedy this situation, Congress in 1958 passed the Defense Withdrawal Act for the express purpose of modifying the asserted nonstatutory authority of the executive to make withdrawals for military purposes. The act requires that all proposed military withdrawals over 5,000 acres be established by specific congressional authorization. Many such withdrawals have been approved by Congress since passage of the Defense Withdrawal Act.

Although some areas withdrawn for military purposes are theoretically open to the mineral laws, there remains about 41.3 million acres of public domain which are withdrawn from the Mining Law. This includes 23.9 million acres in withdrawals for Naval petroleum and oil shale reserves. Also, approximately 48.1 million acres of public domain and acquired land are as a practical matter withdrawn from the mineral leasing statutes. Legislation in the 94th Congress affecting certain Naval petroleum reserves could slightly reduce this figure. Today's need for separate military hydrocarbon reserves is questionable at best, but this subject is beyond the scope of this discussion. Nevertheless, since petroleum and oil shale reserves are expressly excluded from leasing by the provisions of the 1920 Mineral Leasing Act, only through an act of Congress could these valuable energy reserves be deposited back into our account.

Overall, withdrawals from our account for military reserves constitute one of the major classes of withdrawal actions. With the exception of the Naval petroleum and oil shale reserves many of these withdrawals are for national defense purposes. It is, therefore, unlikely that any major portion of these areas will be deposited back into our account in the near future.

Alaska Native Claims Settlement

The land use and ownership situation in Alaska is extremely complicated and requires some historical background to fully understand what has happened to our account in recent years and what will likely happen in the future.

By the time it entered the Union in 1959, only 600,000 acres of land in Alaska were in private ownership. The remainder was public domain which included significant withdrawals from the mineral laws, mostly in military reservations, national parks, wildlife refuges and petroleum reserves. As the state started to select lands granted to it in its statehood entitlement, native groups protested that the state was selecting lands to which they had rights. To protect the lands until the native rights could be determined, Secretary of Interior Stewart Udall in 1966 imposed a freeze on all Alaskan public land actions, including withdrawals. Pressures to resolve the native question were intensified after the discovery of oil in 1968 and culminated in passage of the Alaskan Native Claims Settlement Act (ANSCA) of 1971, which was supposed to end the freeze and finally settle the land issues.

The act effectively withdrew all unreserved public lands in Alaska from the Mining Laws (except for metalliferous minerals) and the mineral leasing laws for a period of 90 days and authorized the Secretary to make any necessary withdrawals under the existing law and authority to protect the land from state and private ownership and mineral entry.

Under the act, Congress awarded the natives nearly $1 billion for regional development corporations and 40 million acres of land to be selected from a pool of 25 townships adjoining each native village. Withdrawals for villages and regional deficiencies for villages withdrawn by the act itself terminate Dec. 18, 1975; however, the subsequent withdrawals made by the executive pursuant to the act remain in effect until revoked by the Secretary of Interior. There are basically two types of executive withdrawals mentioned within the act. The first, section 17, d-1, withdrawals are to be made in the public interest under the Secretary's existing authority. The d-1 withdrawals permit metalliferous location under the Mining Laws except where they overlie a withdrawal that previously withdrew the lands from all forms of mining. The section 17, d-2 withdrawals were withdrawn by the Secretary for possible inclusion into the four systems; national park, forest, wildlife refuge, and wild & scenic river systems. Section d-2 withdrawals, withdrew the land from all minerals exploration under the mining laws. Both d-1 and d-2 withdrawals remove the land from operation of the leasing laws.

Basic provisions of the act required that 120 million acres be withdrawn in aid of native selection pursuant to provisions of ANCSA. These lands are withdrawn from both the Mining Law and the mineral leasing laws. The natives will select about 43 million acres. Of the remaining 77 million acres, some will go to satisfying state selection rights of which Alaska's remaining entitlement is about 35 million acres. Not all the 35 million acres will be selected out of the 77 million. The remaining acreage may be reopened to the Mining Laws and mineral leasing laws at the Secretary's discretion.

A second provision of ANCSA permitted the withdrawal of up to 80 million acres for possible inclusion within the four systems. The Secretary withdrew approximately 80

million acres for this purpose in March 1972. In September 1972, the Secretary made a series of adjustments to these withdrawals. As a result, about 14 million acres of the 80 million acres of d-2 lands initially withdrawn in March for the four systems were shifted to withdrawals for native deficiencies, state selections or d-1 (public interest) purposes. However, the d-2 withdrawal status (which withdraws lands from all the mineral laws) was not removed from the mineral estate.

Approximately the same acreage of lands initially withdrawn for d-1 in March was added to the d-2 withdrawals, thereby holding the overall d-2 withdrawals close to the 80 million acre statutory limitation.

Under the act, the Secretary of Interior had to submit to Congress by December 1973 his plans for dividing up Alaska into parks, refuges, forests, multiple use areas (which hopefully includes mineral exploration and development) etc. The bill submitted by Interior Secretary Rogers C. B. Morton would set up three new national parks (two are more than four times larger than Yellowstone), double the size of Mt. McKinley National Park and enlarge and redesignate Katmai National Monument to park status, and establish four new national monuments; it would add 31.6 million acres to the National Wildlife Refuge System (which now contains about 30 million acres), and among other things, add 18.8 million acres to national forests and 20 areas containing 800,000 acres to wild and scenic rivers. These proposals total 83.4 million acres or 23 percent of the land area of Alaska.

Morton's recommendations included approximately 65 million acres of d-2 withdrawals and 18.4 million acres of d-1 withdrawals. The 18.4 million acres of the d-1 withdrawals in the Secretary's legislative proposal at present are open only to metalliferous mineral location under the 1872 Mining Law. The 65 million acres of d-2 lands remain closed to both the mining laws and the mineral leasing laws.

As soon as the Secretary's proposal was made known, it was immediately attacked by environmental groups who placed a full-page newspaper ad of protest urging Morton to change his recommendations. One of the groups' major concerns was that *large* areas of Alaska would go to *multiple use!* The groups, including the Sierra Club, Wilderness Society and the National Audubon Society, later drafted and had introduced in Congress their own bill which includes vastly larger areas for parks and refuges.

Various other interest groups and legislators will be sponsoring their own bills. Congress is not bound by the Secretary of the Interior's recommendations. It can add any lands it wishes to the parks and refuges, including some mineralized areas disputed by the state of Alaska. Congress has until Dec. 18, 1978, to act on the proposals, and during that time the proposed areas are required to be "protected," including the possibility of additional withdrawals on the d-1 and other lands.

It is certain that, in the years ahead, various preservation and "public interest" groups will be pressuring Congress to preserve entire "ecosystems" for future generations. And during the ensuing months, pictures of snowy mountain peaks and analogies to the destruction of the great buffalo herds will be presented to the public as the strawman argument of preservation versus destruction is raised in defense of America's last frontier. Very few will consider whether the "buffalo" being destroyed is America's future mineral wealth.

Because of the many changes and complexity of the public land orders concerning ANCSA, a determination of the precise acreage of the public domain closed to entry under the Mining Law and the leasing laws by ANCSA was difficult to make (see table 2). Our calculation required knowing the total acreage of public domain in Alaska, and in additions and withdrawals under Sections 11 and 16 of ANCSA; this excludes large areas of forest effected by power site withdrawals. By deleting these reserved lands, state selected lands, pending state selection, unperfected entries, and utility corridor lands from the total U.S. lands in Alaska and then comparing this figure to what is open in unreserved public land subsequent to ANCSA, the specific withdrawal by both legislative and executive actions associated with this act was obtained. As shown in table 2, a total of 206,049,000 acres of Alaskan public domain were withdrawn by ANCSA from entry under the Mining Law of 1872 for metalliferous and non-metalliferous mining, and an additional 43,555,000 acres were withdrawn from non-metalliferous only. Also, as shown in table 2, there was a total of 249,621,000 acres withdrawn from operation of the mineral leasing laws by ANCSA.

Presently, the only public domain in Alaska open to the mining laws includes: 46 million acres of d-1 withdrawn lands left open to metalliferous location by ANCSA, 2.9 million acres open for metalliferous location by the utility corridor withdrawal and 18.6 million acres in National Forest lands. Ironically, 2,952,592 acres are open to the Mining Law in Mt. McKinley National Park and Glacier Bay National Monument; the 1,013,-100 acres remaining open in Glacier Bay National Monument cannot be patented; and 3,152,026 acres in Clarence Rhode and Cape Newenham Wildlife Ranges. Accounting for withdrawn Alaska lands not included in ANCSA is made separately under the appropriate individual categories in fig. 1 and 2.

The land withdrawn for native claims and the land selected by the state of Alaska may eventually be available to some form of mining pending the discretion of the owners, but remain forever closed to the Mining Law and mineral leasing laws. Additional restrictions will certainly affect the public domain which is left. For example, under authorities proposed in Congress, roughly 70 million acres of roadless Alaskan public domain would be studied for intensive management as primitive or roadless areas. Those lands entering the four systems are sure to be withdrawn or severely restricted for mineral exploration and development.

Ignoring these uncertainties, approximately 45 million acres of leftover public domain could eventually be reopened to the Mining Law and mineral leasing laws by a Secretarial order and some portion of the 80 million acres left over after native selection could be opened to the mineral laws at the Secretary's discretion. Finally, portions of the National Forests and a few other areas may be opened for mineral exploration and development in the future. At this point it is not possible to determine what our future mineral land account will be; except only a relatively small fraction of the pre-ANCSA public domain will ever be again opened to the mineral laws.

In any event, through 1974 all lands affected by the ANCSA, except 46 million acres open for metalliferous location only, remain closed to the mining and leasing laws, and will remain so until ANCSA is completed. These lands remain withdrawn from our account.

The Wilderness Act

On Sept. 3, 1964, Congress passed the Wilderness Act to establish a National Wilderness Preservation System. At the time of enactment, 9.1 million acres already being managed as wilderness by the Forest Service were included within the system.

The act required that within 10 years after Sept. 3, 1964, the Secretary of Agriculture should review each area classified by Agriculture as primitive and report on its suitability for preservation as wilderness. The Secretary of the Interior was also given a similar mandate for areas in excess of 5,000 roadless acres in the park system, national wildlife refuges and game ranges. Each area recommended by the executive would become wilderness only if approved by an act of Congress.

Under the act, the agency administering the land is responsible for "preserving the wilderness character of the area" until 1984. "Subject to valid rights then existing, effective Jan. 1, 1984, the minerals in lands designated by this chapter as wilderness areas are withdrawn from all forms of appropriation under the mining laws and . . . mineral leasing. . . ." The act further identifies what prohibitions and restrictions must be imposed to "preserve" the wilderness areas in their pristine state. There "shall be no commercial enterprise and no permanent road . . . no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area." Although, theoretically open to the mineral laws until 1984, these areas are as a practical matter withdrawn. In addition, any mineral patent granted prior to 1984 must reserve to the U.S. title to the surface.

By the close of 1974, there were 125 wilderness units comprising 12.6 million acres within the system. Of these, 65 or 11.6 million acres are in National Forests and 10.7 million acres in states where the operation of the Mining Law of 1872 is still in effect. An additional 3.8 million acres of National Forests were classified as primitive areas.

In conjunction with the act, the Forest Service has inventoried all "Roadless and undeveloped areas" comprising 5,000 acres or more for possible inclusion within the system. An additional 1,449 areas with 55.9 million acres were examined and screened to 274 areas of 12.3 million acres worthy of study. These 12.3 million acres are presently being managed as wilderness and are subject to special wilderness management regulations.

In 1972 in the U.S. District Court of Northern California, the case of Sierra Club vs. Butz arose out of Sierra Club objections that not enough acreage had been selected for study under the act. In an agreement between the Forest Service and the Sierra Club to discontinue the litigation, the Forest Service adopted a policy of managing to the maximum extent possible all 55.9 million acres as roadless, with no surface occupancy until such time as these areas not selected for study as wilderness are covered by land use plans and environmental statements which consider the wilderness alternative.

Perhaps the most misleading section of the act is the requirement for the Geological Survey and Bureau of Mines to evaluate the mineral values present and make public the results of such surveys on all areas to be included within the system. Although the areas proposed and included in the system continue to grow, these agencies are confined to the statutory 1984 time-frame for their evaluation. These "thin skin" mineral surveys are grossly misleading since they create a false sense of security in those who will use them to make tradeoff decisions between wilderness and mineral values. Who can say that minerals for the future do not exist beneath these lands? The history of mining is replete with examples where an individual, through perseverance, luck and deep drilling, found valuable mineral deposits where other, who had gone before, said they did not exist.

In late 1974, President Ford sent his recommendation on additional wilderness areas to Congress. It included 37 areas encompassing over 9 million acres to be added to the existing wilderness system and left open the inclusion of large segments of three western game and wildlife refuges until mineral surveys are completed.

The pending 1984 withdrawal coupled with

present severe limitations on modern commercial exploration techniques, many of which require some road access and all of which require surface occupancy, has practically precluded the necessary exploration to discover commercial mineralization prior to 1984 when the areas will be withdrawn. Even though theoretically open, these severe exploration restrictions on image conscious mining corporations, and the tenuous future title in event of discovery, effectively remove these areas from our account under the Mining Laws.

The present policy of the Forest Service is to recommend no leasing in those areas already within the system, existing primitive areas, and all 55.9 million acres of roadless areas, including acquired land. These recommendations are, with few exceptions, accepted by the Bureau of Land Management which has the statutory authority to lease. All these lands therefore have been removed from operation of the leasing laws and remain withdrawn from our account.

Wild & Scenic Rivers Act

On Oct 2, 1968, Congress passed the Wild and Scenic Rivers Act and at the same time designated eight rivers for inclusion within this system.

The act establishes three classifications for rivers; wild, scenic and recreation. It provides that all areas classified by Congress as wild are to be permanently withdrawn. Until Congress makes this classification, all areas subject to the Mining Law and located within ¼ mile from either bank of a designated or proposed river are withdrawn from operation of the Mining Law until such time as Congress should act upon a positive recommendation for inclusion into the system or until Oct. 2, 1976, whichever comes first. Areas other than wild may be withdrawn from the mining laws by special request to Congress or by administrative action. In those river sections designated scenic and recreational in excess of the ¼ mile corridor, access for location of a claim under the Mining Law is still possible. However, other limitations such as rights of way needed by the mining operation may be prohibitively expensive in terms of public image and in terms of high development cost. While most of these areas may meet our definition of *de jacto* withdrawals we have not considered them to be withdrawn from our account because no accurate acreage figures are available.

Some mining activity could be permitted in those river areas designated as recreational, though it would be severely restricted and controlled. Although these areas may not be formally withdrawn from the leasing laws, it is general administrative policy not to issue any leases in areas designated wild or scenic.

The total land withdrawn from the operation of the mineral laws under this act is about 246,000 acres of public land administered by BLM and 224,000 acres of land administered by the Forest Service. Alaskan rivers have not been included since they were withdrawn by d-2 overrides under the ANCSA.

In early 1975, Congress enlarged the existing system of eight designated and 27 study rivers to include 29 additional river study areas. Public land, although withdrawn within the ¼ mile corridor of these additional river study areas, has not been included in the statistics in this study. Furthermore, our statistics do not reflect proposed amendments to the present federal acreage in the original eight rivers and 27 study rivers. The size of these amendments varies from less than ¼ mile up to 1 mile or greater from the banks of the designated rivers. Most of these amendments take into consideration topography and scenic values with no explicit consideration of potential mineral values. Leasing of minerals would not be permitted on federal lands within any area being studied for possible inclusion within the system, except perhaps oil and gas on a case-by-case basis. We have not considered those areas outside the ¼-mile statutory zone or areas potentially affecting water quality in tributaries to these rivers as being withdrawn from the mineral laws. Both categories of areas are here considered open under the Mining Law, although they might not be explored or developed due to high costs, water quality risks and damage to public image. Decisions to lease would be handled on a case by case basis by the Bureau of Land Management office having jurisdiction. With the possible exception of some oil and gas drilling, leasing would not likely be permitted in any of these areas.

In summary, the act has presently withdrawn 470,000 acres of federal land in ¼-mile corridors from the Mining Law in eight existing and 27 study river corridors. This figure does not include designated rivers in Alaska and the 29 additional study rivers proposed in 1975. These 470,000 acres are also withdrawn from leasing. This statistic also does not include public land study areas in excess of the ¼-mile zone being studied for inclusion within the system which are also effectively withdrawn from our account. It should be emphasized that the impact of the Wild and Scenic Rivers Act is considerably greater than indicated in our statistics. Surface managing agencies are studying at least 17 rivers involving public and acquired land for inclusion in this system. Many of these areas are effectively zoned off limits to mining through land use plans or the withholding of leasing approval and access. As better data develops and classifications are made, lands in addition to the 470,000 acres will be withdrawn from the mineral laws of our account.

Atomic Energy Commission

Withdrawals for Atomic Energy Commission purposes (now ERDA and Nuclear Regulatory Commission) are of two types, consisting of congressionally directed withdrawals and those initiated by the executive without specific statutory authority.

In 1945, President Truman, citing only his authority as President, withdrew all public lands of the United States which contained deposits of radioactive minerals from operation of the public land laws. This executive order (E.O.) was subsequently modified in 1946 and 1947 by new orders which provided for the reservation of source materials in certain U.S. lands. It is interesting to note that these sweeping executive withdrawals cited no specific authority. Finally, in 1954, the Atomic Energy Act was passed, which, among other things, granted the Atomic Energy Commission authority to lease deposits of source materials in lands which, presumably, are not subject to location under the General Mining Law. Shortly after passage of this act, in 1955, E.O. 10596 was issued, which revoked the previous orders used to withdraw source materials in certain lands.

The Atomic Energy Commission did not have authority to withdraw public lands for its own use. It had to rely on Congress and the executive to withdraw lands it needed. There are basically two reasons for most of the AEC-sponsored withdrawals: to establish research or storage sites and to effect control over source materials. The public land orders issued by the Department of the Interior for the AEC usually withdrew lands from all mineral laws. Some do not withdraw lands from the leasing laws since leasing is a discretionary act. The biggest portion, about 83 percent, of the lands withdrawn from our account for AEC uses are for three testing and research facilities: the Nevada Test Site, the National Reactor and Testing Station in Idaho, and the Hanford facility in Washington. A total of about 1.4 million acres are withdrawn from the Mining Law for AEC uses. An additional 0.6 million acres are expressly or in fact withdrawn from the leasing laws.

Small Tract and R & PP Act

Small tracts of public domain can be leased or sold under the Small Tract Act of June 1, 1938. Acreages designated for this purpose have remained fairly constant in recent years, amounting to 457,000 acres in 1974. Many of these are business site leases. Applications for such sites segregate the lands from the mineral laws and when approved these tracts are withdrawn from our account.

The BLM has in effect withdrawn and reserved areas from the mineral laws for recreational use under the authority of the Recreation and Public Purposes Act of 1926. This statute authorizes the Secretary of the Interior to dispose of public lands to states, municipalities etc. for recreational projects. The act does allow for classification of lands in Alaska. If no application is filed within 18 months following such classification, the Secretary "shall restore such lands to appropriation under the applicable public land laws." Interior has extended this classification authority to all lands of the U.S. through use of section 7 of the Taylor Grazing Act of 1934. Departmental regulations in two different places provide that, "Lands in Alaska and lands in the states classified pursuant to the act under section 7 of the act of June 28, 1934, will be segregated from all appropriations including locations under the mining laws. . . ." Nothing in section 7 of the Taylor Grazing Act authorizes classifying lands as closed to the mining laws. In fact, the Taylor Grazing Act specifically provides that nothing therein should restrict operation of the mining or mineral leasing laws.

While the legal authority for classifying these lands as closed to the mineral laws is rather tenuous, fortunately, not very much acreage is involved. In 1973 and 1974, only 17,000 acres were segregated under this category and 57,155 acres were under recreation and public purposes leases. These acres are withdrawn from our account. In more recent years, recreation areas have been withdrawn under the inherent non-statutory authority of the executive. These more recent withdrawals have been accounted for under the administrative and recreation category in fig. 1 and 2.

Classification and Multiple Use Act (C & MUA)

On Sept. 19, 1964, the Classification and Multiple Use Act was passed by Congress. Authorization for segregating and classifying public land under this act expired on June 30, 1969; however, classifications made prior to its expiration remain in effect. The effect of these classifications is to exclude from entry under the Mining Law onto the acreages listed below:

Alaska	* 3,246,624
Arizona	158,497
California	123,774
Colorado	7,466
Idaho	15,099
Montana	16,423
Nevada	137,180
New Mexico	54,573
Oregon	59,675
Utah	31,085
Wyoming	59,855
Total	3,910,251
Total (exclusive of Alaska)	663,627

* This segregation was included in the ANCSA withdrawals and has been excluded in the summary sheet for the Mining Laws under 1974 to eliminate double accounting.

Miscellaneous

There are a host of other laws under which relatively small amounts of land are withdrawn from our account for specific uses. Also, the executive, under its nonstatutory withdrawal authority has been withdrawing large numbers of areas for uses ranging from the creation of a 12,200-acre reserve for the desert tortoise in California to the withdraw-

al of one of the first gold mining camps in Montana. Table 3 identifies some of these miscellaneous withdrawal categories with estimated acreages for 1968 and 1974.

In table 3, townsites and other special uses include areas on public domain within incorporated cities, towns or villages, some of which are former mining camps. Other spacial uses refer to withdrawn easements for roads, power lines or irrigation ditches.

Other water uses include watershed withdrawals, natural springs public water reservoirs, irrigation projects, underwater research and development, water salvage projects and underground water supplies.

Areas withdrawn for wildlife other than game ranges and wildlife reserves include withdrawals for wildlife management areas, waterfowl protection areas, desert pup fish areas, and withdrawals for various other species of wildlife.

One of the larger of the miscellaneous categories is stock driveways. These lands were historically reserved for driving cattle to the railroads and were usually not withdrawn from the Mining Laws.

Research, scientific, and educational areas include botanical sites, archaeological areas, ecological plots, national historic sites, experimental forests, scientific study sites, experimental range and pasture, pine and seed orchards, geologic sites and certain Science Foundation lands.

Other miscellaneous withdrawal categories include post office, air navigation and lookout sites, rockpits, airports, fire control centers, test sites, fish hatcheries, pumping projects, creek channels, job corps sites, hospital sites, prisons and others.

EXECUTIVE WITHDRAWALS

Many of the withdrawals from our account are initiated by the executive without any specific statutory authority.

It is not clear at what point the executive began to assert its nonstatutory withdrawal power, but in the early 20th century President Taft issued Temporary Petroleum Withdrawal #5, which withdrew from the mineral laws approximately 3 million acres of oil lands in California and Wyoming. There was no specific statute authorizing this withdrawal and it was subsequently challenged and affirmed by the Supreme Court in the famous Midwest Oil Case. The court upheld the President's authority to withdraw these lands based on an implied acquiescence in such withdrawals by Congress. It is important to understand that the court did not state that the President possessed this inherent withdrawal power, it merely stated that the practice of withdrawing without statutory authority was known to Congress for some time and Congress' acquiescence (by not overturning the withdrawals) operated as an implied grant of power to withdraw.

Shortly after the petroleum withdrawal in 1909, the then Secretary of the Interior expressed concern over his legal authority to make withdrawals. President Taft, concerned about this problem, asked Congress to enact legislation to authorize temporary withdrawals. This request eventually resulted in the Pickett Act, the first and only statute Congress has enacted affecting the general withdrawal authority of the executive. Although the legislative history of the Pickett Act strongly supports the contention that the act was intended to cover the entire range of the executive's withdrawal power, the executive has continued to exercise a nonstatutory authority to make permanent withdrawals. The Pickett Act specifically prohibits the withdrawal of public lands from metalliferous location under the Mining Law.

The authority usually cited for withdrawing lands from the Mining Law is a 1941 Attorney General's opinion which held that the Pickett Act was only intended to control "temporary" withdrawals, leaving open the authority of the executive to make permanent withdrawals. Interestingly, an earlier draft of this opinion reaches the exact opposite conclusion, but because of arguments from the Secretary of the Interior it was not issued. In more recent times the use of this asserted nonstatutory authority has even been used to make temporary withdrawals from the Mining Law even though the Pickett Act expressly forbids making such withdrawals for metalliferous minerals.

In 1942, the President delegated all of his authority to withdraw public lands to the Secretary of Interior. This delegation was subsequently amended and in 1952 Executive Order 10,355 was issued. This E.O. effectively gives the Secretary of Interior complete control over the executive's withdrawal process, including the President's powers under the Pickett Act and the exercise of the inherent power referred to in the 1941 Attorney General's opinion. The Department of the Interior has increasingly relied on its nonstatutory authority, especially where removal of the land from the Mining Laws is considered necessary.

Oil shale

One of the best examples of the scope of the executive's withdrawal authority is provided by President Hoover's 1930 E.O. 5327 which "temporarily" withdrew deposits of oil shale and lands containing such deposits from leasing under the Mineral Leasing Act. This floating "temporary" withdrawal was modified by three subsequent orders to more precisely identify the lands affected and allow sodium leasing. The fourth withdrawal occurred in 1968 when Interior issued Public Land Order 4522, which withdrew 3,676,000 acres in Colorado, Utah and Wyoming from the mining laws. This withdrawal did not rely on the Pickett Act "temporary" withdrawal authority even through the previous "temporary" oil shale withdrawals were in effect for 37 years. But rather, Interior withdrew the oil shale from Mining Laws, an action expressly prohibited by the Pickett Act, through use of its asserted nonstatutory withdrawal power delegated from the President by E.O. 10,355.

The purpose of this withdrawal was to protect the oil shale lands from appropriation under the Mining Law after the presence of aluminium bearing dawsonite attracted a flurry of claim staking and for the protection of other resources in the lands. In 1972, there was a series of revocations and restorations affecting 917,000 of these acres prior to the prototype oil shale lease sales. The withdrawn areas which were not affected by these revocations remain withdrawn from our account for metalliferous minerals and mineral leasing for sodium.

Fish and wildlife refuges

As of 1974 there were 24.4 million acres of public domain land withdrawn for the purposes of the Fish and Wildlife Service. About 24.3 million acres of this are in states subject to the Mining Law, (see table 4). Withdrawals for fish and wildlife purposes are usually accomplished through executive or public land orders, however, it is often not clear whether these orders are based on the statutory authority under the Pickett Act, and therefore open at least to metalliferous minerals location, or whether they are based on the implied nonstatutory authority of the executive.

In a report to the Public Land Law Review Commission, the Fish and Wildlife Service (F&WS) identified 27 reserves created prior to the 1910 Pickett Act. These the agency considers to be closed to all the mineral laws. Withdrawals subsequent to the Pickett Act usually cite the "authority vested in the President" or E.O. 10,355 as authority but do not contain specific language concerning operation of the mineral laws. But since the F&WS considers these areas also to be withdrawn from the mineral laws, it is likely the authority relied on is the implied nonstatutory authority of the executive. This situation has created some confusion, however, especially where Pickett Act language is used in the withdrawal order. The creation of the Kenai National Moose Range (E.O. 8979, 1941) demonstrates the confusion among administrators as to whether or not these orders close an area to the mineral laws. This particular case went to the Supreme Court in *Udall vs. Tallman*, but the ruling only held that mineral leasing wasn't expressly precluded. The F&WS considers this area to be closed to the Mining Law. There are also examples of orders which cite the Pickett Act as authority but which the F&WS still consider to be closed to the Mining Law, e.g., E.O. 8592, Nov. 1940.

Finally, there are situations where Congress has enacted statutes which give, some have been interpreted as giving, authority to withdraw lands for fish and wildlife purposes. Most of these, however, grant authority to create refuges on lands already withdrawn for specific purposes, usually national forests or reclamation purposes. Where such overlaps have occurred in our statistics, we have corrected for it by reducing the other withdrawal category, e.g. reclamation purposes.

In more recent years, the Interior Department has attempted to clarify this situation by specifically stating in the orders that the "lands are withdrawn from the mining laws but not the mineral leasing laws." The situation is further clarified by departmental regulations which provide that the filing of mining claims and prospecting and removal of minerals is prohibited on national wildlife refuges. The exception provided in the regulations is for oil and gas leasing where drainage occurs.

With respect to leasing for other minerals, the F&WS manual states: "Application for leases are referred to the service by BLM for recommendations. In conformance with service policy—the service usually recommends against leasing." This same policy also applies to lands which are not in the F&WS system but are jointly managed by F&WS and another agency. Such policies, of course, do not permit individual assessment of potential mineral values so that intelligent land use decisions can be made between mineral and wildlife habitat values. Nevertheless, the F&WS lands are withdrawn from the Mining Law in fig. 1 and 2 are also withdrawn from mineral leasing.

Almost all wildlife refuges are withdrawn from the Mining Law. At the close of 1974 there were only three game ranges clearly open to the operation of the Mining Laws, and one, the Charles M. Russell Game range with only 357,000 acres left open to the Mining Law, was segregated from mineral entry by a proposed withdrawal filed in early 1975. There are four additional game ranges in Alaska comprising 3,250,000 acres which are not specifically segregated from mineral entry in the withdrawal order but by F&WS interpretation of the order (see table 4). These have been withdrawn from our account but are accounted for under a separate withdrawal category. It is unlikely that lands withdrawn for fish and wildlife purposes will be reopened to the mineral laws and they will remain withdrawn from our account.

Utility corridor—Alaska

On Dec. 29, 1971, Interior issued Public Land Order 5150, which withdrew lands for reservation as a utility and transportation corridor. This affects approximately 5,343,300 acres of land in Alaska. Of this acreage, 2,897,520 acres were withdrawn from the mining laws and the leasing laws. The remaining 2,445,780 acres were left open to metalliferous location under the mining laws only. All 5,343,300 acres were withdrawn from the leasing laws.

Although nearly contemporaneous with the Alaska Native Claims Settlement Act this public land order constitutes a separate ex-

ecutive action on nonoverlapping land areas and therefore represents a separate withdrawal from our account.

Primitive and roadless areas

The Bureau of Land Management can affect the lands in our account in two important ways. First, it is the responsible federal agency for reviewing all agency withdrawals and recommending to the Secretary of the Interior what action to take. In short, it administers the executive's total withdrawal authority delegated to Interior under E.O. 10355. Second, as the major public land managing agency, it may withdraw (both *de jure* and *de facto*) lands from our account in implementing its own resource programs. Executive withdrawals from the mining or mineral leasing laws have been initiated by BLM for numerous reasons.

Many of these have been accounted for in our study under several other withdrawal categories, such as administrative and recreation, proposed withdrawals, utility corridor, and miscellaneous categories. However, some of the major withdrawals from our account are for the creation of "primitive" and roadless areas.

The concept of a BLM "primitive" area is said to evolve from the Classification and Multiple Use Act. While no such mandate is in this act, which expired June 30, 1969, the act did recognize the classification of lands for wilderness values but did not authorize withdrawals for this purpose. In fact, wildernesses can only be established by Congress, which did not provide for inclusion of BLM lands in the system established by the Wilderness Act of 1964.

Under the nonstatutory withdrawal authority delegated by E.O. 10355, the BLM has withdrawn about 0.2 million acres from the mineral laws for establishment of primitive areas. About 0.1 million acres of this has been corrected for overlaps with classification and Multiple Use Act segregations (see fig. 1). Also, withdrawal applications for creation of primitive areas have been proposed on an additional 1.6 million acres. These areas have thus been segregated from the operation of the mineral laws and are effectively withdrawn from our account. Finally, there are 3.9 million acres pending designation as primitive areas. According to BLM internal instructions "to qualify for designation the proposed area must either be withdrawn or have been classified ... under the C&MU Act."

Designation of an area is not a withdrawal in the legal sense, rather, according to BLM, "it is merely a process of naming and morally obligating the Bureau to a specific course of action". The BLM recognizes that "a proposed primitive area can be protected from incompatible intrusion long before the actual designation is finalized." But BLM does make an attempt to limit withdrawals and to "concentrate on key and significant areas or features within the total area being proposed for designation." Interior regulations provide criteria for primitive area use. Travel is restricted to nonmechanized forms, construction is not allowed in or on the land except where authorized, roads, mechanized equipment, nontransient occupancy and the landing of aircraft is prohibited except for certain authorized activities and then only under conditions specified (43 CFR section 6221.2).

Mineral leasing is usually not permitted in proposed primitive areas and mining claim activity is restricted to the point where it meets our definition of a *de facto* withdrawal. The 3.9 million acres of proposed primitive areas (as of 1974) are therefore withdrawn from our account in figs. 1 and 2.

BLM roadless study areas include those areas withdrawn as primitive areas and those areas where withdrawal or designation is pending. There were about 89.5 million acres of roadless areas identified by BLM at the time of this study. Some 64 million acres are in Alaska and overlap ANCSA withdrawals. Of the remaining 25.5 million acres, 5.6 million acres overlap existing and proposed BLM primitive areas and 0.7 million overlap C & MU Act lands which have been segregated from mineral entry. This leaves 19.2 million acres of nonoverlapping areas within this category. The identification of these roadless areas is the first step in the creation of primitive areas. How many acres of this eventually are withdrawn as primitive areas is uncertain. But once an area has made it to the last step of the BLM planning process the BLM considers itself to be "obligated" to the protection of the primitive values. In addition, several bills were introduced in the 93rd and 94th Congresses which would provide more specific authority to consider and withdraw these roadless areas for their primitive and wilderness values.

De facto withdrawals from leasing laws

Many public land orders withdraw lands from operation of the Mining Law but do not specifically withdraw the lands from mineral leasing. But, because the issuance of a lease depends on the exercise of administrative discretion, many of these areas are also effectively withdrawn whenever the administrator chooses not to exercise his discretion. In many cases, it is agency policy not to approve mineral leasing whenever requested by the mineral leasing agency, the BLM. In other cases, a local administrator will choose not to issue a mineral lease in order to further protect the areas already withdrawn from the Mining Law. Some reports accompanying proposed withdrawal requests boldly state that although the proposed order only withdraws the lands from the Mining Laws, no mineral leasing applications will be approved! It is impossible to precisely determine how many acres withdrawn from the Mining Laws are also withdrawn from mineral leasing. However, where certain categories of land have been withdrawn to "protect them from the Mining Law" it is unlikely that mining under a lease would be allowed. In table 5, we have attempted to estimate the acreages which are closed to the Mining Law and also closed to mineral leasing. These estimates are based on agency policy and responses to requests from the leasing agency. It should be noted that there are some exceptions for the issuance of oil and gas leases.

Tennessee Valley Authority

Leasing on acquired lands requires the consent of the surface managing agency prior to issuance of a lease by the Bureau of Land Management. The Tennessee Valley Authority administers 916,000 acres of acquired lands. In 1974 the TVA was withholding consent on the lands it administers, thereby effecting a withdrawal from the leasing laws of this land from our account.

Proposed withdrawals

The filing of a withdrawal application and noting of the records effects an immediate segregation of that land from mineral entry. This segregation remains in effect until terminated or until a final public land order is published. Table 6 shows the acreage segregated by outstanding withdrawal applications. There are outstanding withdrawal applications which date back to 1956, although the data presented here includes only the applications filed the last five years.

Of the 3.7 million acres segregated from mineral entry in 1974, we have removed 1.4 million acres since they were previously withdrawn from the mining laws for military uses. Eliminating this overlap produces a net of 2.3 million acres which have been segregated and effectively withdrawn from entry under the Mining Laws in 1974 alone. This includes 167,000 acres withdrawn for geothermal exploration and development, and numerous miscellaneous proposals, mostly for recreational purposes. There remain numerous outstanding proposed withdrawals prior to 1970 and several large proposed withdrawals in early 1975 (e.g., 980,000 acres in the C. Russell Game Range in Montana, of which only 357,127 were still open to Mining Laws). Large withdrawals for primitive areas also loom on the horizon. We have only withdrawn from our account those segregations shown in table 6. Should these proposals be terminated, they would be deposited back into our account; should they ripen into public land orders they will be withdrawn permanently. At this point in time, however, they are withdrawn from our account.

WITHDRAWAL TRENDS

In order to examine recent trends in executive initiated withdrawals, we have examined over 1500 public land orders for their specific effect on mineral lands. This analysis considered all published withdrawals and revocations in excess of 20 acres between 1964 and 1974. Our purpose was to get some idea of which land use categories were making deposits and withdrawals from our account and to see if any meaningful average annual withdrawal rate could be established.

Fig. 3 shows the total executive withdrawals less revocations by major land use category for the 10-year period. Keep in mind that this chart does not represent all the withdrawals put into effect during this time period, but only those initiated by the executive. Furthermore, the recent increases in proposed withdrawals have not been included. For the Mining Law, military, wildlife, and administrative and recreation uses took the most land out of our account and deposited the least. All remaining withdrawals and revocations were lumped into the "other" category. Because this account included Alaskan withdrawals, it shows the biggest deficit over revocations (for this category, please note the difference in scales between withdrawals and revocations).

For leasing, fig. 3 shows that there was relatively less executive initiated withdrawal activity during this period except for military withdrawals and the "other" category. The withdrawal problem for leasing cannot be analyzed simply by looking at published withdrawal notices. The exercise of leasing discretion by the surface managing agencies and the effects of congressional enactments are the key factors in assessing the impact of withdrawals on the mineral leasing laws.

An examination of withdrawal trends in this 10-year period indicates that during the Department of Interior's withdrawal review program, revocations almost balanced withdrawals. However, beginning in 1967 the level of withdrawals began increasing substantially, perhaps due in part to a de-emphasis in the withdrawal review program. In 1971 withdrawals (exclusive of ANCSA) took quantum jumps as concern for the environment and wildlife habitat became a major national goal.

Because of the large variations in the net acreage withdrawn, we were not able to calculate a meaningful average annual withdrawal rate. However, certain broad withdrawal trends can be predicted. In the years ahead, the recent increases in executive initiated recreation, primitive and national area withdrawals will continue. Additional withdrawals to establish new wilderness and legislatively authorized primitive areas can also be expected along with larger acreages for wild and scenic rivers.

Some agencies, in attempting to comply with the Endangered Species Act, have proposed that "critical habitat" of endangered and threatened species be identified along with a list of actions which cannot take place on the designated areas. Identification of these areas would result in special regulations or other administrative and management actions designed to protect these en-

dangered species "enclaves." Various other bills, all providing authority to zone out or "control" mineral exploration and development, in certain areas, are also on the horizon. The problem with most of these bills is that they do not consider the large areas that have already been withdrawn from mineral development. None of these bills contain provisions for reviewing and eliminating the single use oriented withdrawals now in effect.

CONCLUSION

We have shown that through governmental actions we have firmly withdrawn nearly 400 million acres from the operation of the Mining Law and over 500 million acres from the leasing laws. In addition, over 100 million acres for the Mining Law and 70 million acres for the leasing laws are encumbered or are being managed in such a way as to constitute a *de facto* withdrawal from mineral development.

This means that, for the Mining Law, mineral exploration and development is specifically prevented or discouraged in an area the size of the states of California, Arizona, Washington, Oregon, Nevada, Utah, Idaho and one half of Colorado.

For the mineral leasing laws, exploration and development is prevented or discouraged in an area equal in size to all states east of the Mississippi except Maine. This does not include acreages which are presently under lease where further leasing may be restricted, especially in areas of non oil and gas leases and producing oil and gas fields. For mineral leasing portions, of what remains may be withdrawn through *a priori* zoning under various land use planning systems, although the magnitude of this latter problem cannot be assessed at this time.

One of the major reasons this situation has occurred is the lack of any mechanism for assessing the cumulative impact of thousands of discrete withdrawal actions. Each interest group working to have more land withdrawn does not consider the cumulative impact of its, and other group's, successful efforts. Rather, it tends to see its own reasons for withdrawing lands as more important and more in the national interest than land needs for mineral exploration and development. The rhetoric behind these withdrawal debates results in most areas being totally withdrawn from mineral development and what remains being totally open.

This kind of a land use strategy is economically unsound and is simply bad public policy. Since there is now more public land withdrawn from mineral development than is open we must create a middle ground where the mineral industry will have to accept reasonable conditions on its activities while the preservationists and others will have to accept the fact that somewhere in that million acre wilderness area, there is a mine. Given the present situation and our minerals-land account, it may be already too late. What ever happened to multiple use anyway?

And government exploration and development is not the answer, although there will be those who have no concept of what is involved in discovering and developing a mineral deposit who will argue that only the government is capable of exploring for minerals on federally-owned lands. If past government involvement in private industry is any indication, this alternative would be a total failure and an unacceptable burden on the already burdened American taxpayer.

The other major reason this situation is not appreciated is because the consequences are long term. In fact, the withdrawal of minerals land account, it may be already ades to come.

However, there will be consequences, both for our economy and our national security. Our actions increase the likelihood of national problems brought about largely through artificial altering by foreign cartels of supply and prices. Recently, the U.S. Geological Survey forecast that within the next 25 years the United States shall be 100 percent dependent on imports for 12 essential mineral commodities, more than 75 percent for 15 and more than 50 percent for 26 commodities. The implications are staggering. But the purpose of this article is not to point a finger of blame but only to make the public aware of what we are doing. Intelligent land use decisions must be very finely balanced. Such balance in tradeoff decisions is not possible if we do not know what the mineral side of the scale contains.

We began this article by asking whether our mineral lands account was overdrawn. We don't pretend to know the answer, but if it is and we continue to make withdrawals regardless of our total assets then, when will we be required to balance our account; who will be asked to make up the deficit; and at what price?

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EFFECTS OF GOVERNMENT OVER-REGULATION ON ENERGY AND THE ENVIRONMENT

Mr. CURTIS. Mr. President, on several occasions during the past 4 months I have joined several of my colleagues in floor discussions of the adverse effects of Government regulation on the American economy, personal freedoms, small business, and the American consumer. During our previous discussions we have focused attention on the need for reform of our Government regulatory agencies.

One area that we have not yet touched on, but which we are discussing today, is the effect of Government overregulation on energy and the environment.

I wonder that our avid and zealous environmentalists have not bothered to consider the detrimental effects of much of our Government regulation on the environment. If the many proponents of environmental conservation were truly concerned about our natural resources, they would consider the often wasteful depletion of our resources because of the operations of many of the regulatory functions of the Government which supposedly espouse environmental causes.

Consider, for instance, the mammoth harvest of our forests needed just to produce the billions of copies of Government forms that are required by various Federal agencies in their operations. Besides the wasteful cutting of timber to produce this paper, there is necessarily a vast amount of fuel and energy consumed in the transportation of cut timber and finished products, and in the processing and manufacture of paper at the mills.

A true environmentalist should ask himself if this voluminous consumption of natural resources is worth the end product of Government control and regulation. Would not it be better to have substantially less consumption of our natural resources in the first place, than to have to establish so many regulatory functions to protect them because of their depletion An intriguing question, to be sure, but one I believe environmentalists have refused to address.

REGULATORY REFORM

Besides the many operations of the Federal Government that necessarily have an effect on our natural resources and energy supplies, whether directly or indirectly, there are many instances in which environmental regulatory operations themselves have a direct adverse effect on our natural resources.

I am sure my colleagues will recall the debate and consideration in the Congress of requirements for the catalytic converter on automobiles to control air pollution under the Clean Air Act of 1970. It has now been shown that the use of the catalytic converter has led to dangerous poison byproducts, and recent allegations have been made that the Environmental Protection Agency manipulated scientific research and covered up contradictory evidence of the effectiveness and need for the catalytic converter.

I will not debate the merits of the catalytic converter itself, but want to point out that in consideration of the requirement for the device, no one expressed concern over the economic and environmental impact the requirement would have on our natural resources.

The peculiar design of the catalytic converter was such that it could only be used effectively on automobiles with unleaded gasoline. Well, that conversion to unleaded gasoline led to a reduction in the amount of gasoline extracted from a barrel of oil by about 5 percent.

That figure may not seem high, but when it is multiplied by the millions of barrels of oil that have been processed into gasoline since the Clean Air Act of 1970 took effect, it is obvious that the very legislation and regulations we had promulgated as beneficial to the environment, may in fact have been as detrimental in terms of their effect on increased consumption of natural resources they necessitated.

Another aspect of the catalytic converter that directly affected our natural resources was the special gasoline pumps that were required. Thousands of service stations across the country had to buy and install new pumps which were specifically designed to pump unleaded gasoline. Surely the iron ore that had to be mined for the manufacture of those special pumps and the catalytic converters themselves has to be reckoned with as a depletion of our natural resources. Furthermore, the energy consumed in the manufacture and delivery of those products must be considered as a waste of our natural resources.

I can cite a specific instance where Federal regulation has proved costly and has affected our energy needs and supplies in my own State of Nebraska. Because of Federal regulations and redtape, we have experienced an otherwise unnecessary delay in the construction of a 650-megawatt steam electric generation plant. The delay has already cost

the citizens and taxpayers of Nebraska millions of dollars.

Plans for the coal-fired plant, needed to meet the State's growing energy needs, were initiated in 1973. The Sierra Club, in November of the same year, filed a complaint with the Federal Power Commission on environmental grounds.

It is interesting to note that the Nebraska Department of Environmental Quality approved the powerplant construction plans as complying with State and Federal environmental quality standards. The EPA upheld the Nebraska State agency decision in this regard, and Federal courts also upheld the construction of the plant.

Yet, the Sierra Club was able to have its complaint against the powerplant construction taken up by the FPC under the authority of the FPC over an original hydroelectric project built there some 40 years ago. At the same time the Federal Power Commission agreed to process the claim of the Sierra Club, it refused—and has continued to do so—to act on applications filed by the Nebraska Public Power District to amend the original hydroelectric plant boundary to allow expeditious construction of the new plant.

Based on the Sierra Club complaint, the FPC issued a cease-and-desist order on any further construction of the plant. As a result of the FPC decision to date, the citizens and consumers of Nebraska have already been harassed with an additional estimated $100 million in costs.

The FPC decision resulted in relocation of the plant facilities at a cost of $9 million, that also entailed a 1-year delay in the earliest planned operation of the 650-megawatt plant for 1976. According to information supplied by the power district and the Mid-Continent Area Power Pact of which the Nebraska Public Power District is a member, the plant had been planned to meet power needs in 1977 to keep electrical shortages to a minimum in the Midwest.

Now, however, brownouts and power shortages are forecast for the Great Plains States as a result of this delay. Furthermore, annual additional expenses of $38 million are forecast for the Nebraska Public Power District and the consumers of Nebraska to purchase the supplemental electricity that the delayed station would have otherwise been producing.

The irony of this case is that the FPC acted on an environmental complaint against the project and failed to recognize that it had met requirements of the Nebraska and Federal Environmental Protection Agencies on environmental grounds. This is an example of Federal overregulation that has cost consumers of one State alone more than $100 million.

Another specific example of direct impact of Federal environmental regulations on the environment itself in my State concerns the construction of railroad crossings on highways.

The regulations and requirements of the Environmental Protection Agency are so voluminous restrictive, and complicated that virtually every Federal, State, and local government entity—as well as many private sources—have been loaded down with ridiculous paperwork requirements.

In a central Nebraska newspaper editorial last year, Federal regulations were taken to task for bringing environmental impact statements into the installation of crossing signals and gates at a rural highway intersection in the State. The editorial pointed out that installation of the signals and gates had been delayed almost a year while the environmental impact statement was being prepared.

The crossing guards were to be installed as a safety factor and it is beyond my comprehension how anyone could perceive an effect on the environment by the installation of two flashing lights and gates at the crossing.

I wonder at the wisdom of Federal regulations that cause heavy cost increases while appearing to be more concerned with railroad crossing signals disturbing quail roosting nearby, or flashing red lights blinding sparrows in flight.

Still another example of Federal regulations that have adversely impacted on natural resources occurred in my State. An irrigation district in Nebraska has been directed to formulate an oil spill plan by the U.S. Coast Guard, even though in its environmental impact statement on construction of a small reservoir, the district said that motorcraft will be prohibited from the reservoir.

There will be no in-lake drilling or any near the lake, but the Coast Guard still insists on the ridiculous preparation of the oil spill plan. There is no telling how many hundreds of dollars of taxpayers' money will be poured into interpreting the useless—in this case—plan by the Coast Guard or the Department of Transportation. Likewise, the paper that will be needed for such a report will be wasted.

Mr. President, one would think that with all the attention being paid now to the near critical levels of supply of some of our natural resources, we would be more scrupulous in our decisions about adding more and more to the arena of Government regulation that directly impacts on those resources. But, we have not done so.

The Fish and Wildlife Service, an agency of the Interior Department that is charged with the responsibility of overseeing the preservation and maintenance of our wildlife resources, recently issued proposed rules for the establishment of critical habitat areas for several endangered species of animals in the United States.

While I do not object to any Federal agency carrying out its responsibilities, I do believe that too often our many Federal agencies are in fact irresponsible in the functions and activities they undertake.

In its recent proposal, the Fish and Wildlife Service established a so-called critical habitat area for the whooping crane that encompassed more than 2,100 square miles in south central Nebraska.

Besides the fact that this proposal mandated Federal control over the land use of almost exclusively private lands in my State, it was an unnecessary measure which could in no way conceivably provide any protection to the whopping crane beyond what is already provided for by law.

In a letter to Fish and Wildlife Service Director Lynn Greenwalt, I noted that the whooping crane was already protected by the Endangered Species Act of 1973 and the Migratory Bird Treaty Act. In addition to those acts, there are other Federal and State laws which control the hunting or killing of the whooping crane and other wildlife.

I concluded that the creation of critical habitat areas could only lead to further Federal encroachment on the rights and authorities of the States and localities, and that these new regulations would only be redundant and, as such, lead to unnecessary consumption of natural resources in their implementation.

I pointed out further that the National Environmental Policy Act and other Federal environmental legislation and regulations already provided for strict controls, study, and investigation before the construction of any project that would affect the natural terrain of the land could be undertaken. NEPA and other legislation and regulations now require that environmental impact statements be prepared and approved before any construction can be undertaken that would in any way change or alter the physical environment.

Environmental impact statements and other reporting and study requirements now exist for the Army Corps of Engineers, Bureau of Reclamation, and other Federal project agencies. So, the proposal for designation of critical habitat areas is nothing more than another paperwork requirement that will only lead to further delays in the construction of projects and additional costs in the studies and reporting and energy needs for construction.

The point is clear—in our efforts to preserve and protect our natural environment, the Federal Government fails to act responsibly and to consider all possible effects of regulation on our environment. It's another case for reducing and eliminating Federal regulations.

COUNTERPRODUCTIVE FEA REGULATORY PROGRAM

Mr. DOLE. Mr. President, the primary objective of any Federal activities regarding energy production should be to achieve the maximum domestic output. It should go without saying that achieving that goal is absolutely essential in order to serve the best public and national interests.

Yet it is the impression of this Senator that the effect of the FEA regulatory and compliance program has been just the opposite. It is my feeling that the results have ranged from outright disincentives for increased production to harassment of those trying to supply energy for this country.

SHARED RESPONSIBILITY

Let me say at the outset that the Senator from Kansas does not hold the Federal Energy Administration solely responsible for the activities carried out under the compliance program. For, the responsibility for this program lies a great deal within the jurisdiction of the Congress. Many of the laws that have resulted in production disincentives have been created in this very institution.

But if we are to make improvements, it is essential to understand what is happening in the energy industry.

This in itself is difficult because the activities in the energy producing industry vary a great deal. The energy industry is highly complex. Accepted practices vary from region to region and they vary depending on the sector of the industry, whether it be crude oil production, refining, transportation, wholesaling or retail marketing.

FEA DATA

Over the past several months the Senator from Kansas has received a great many complaints from businessmen at all levels of the energy industry. In an effort to better understand these complaints, I requested earlier this year that the FEA provide me specific data on their compliance and regulatory efforts.

These data have led to some striking conclusions. The information has caused me to conclude that the complaints from within the industry have not been without cause and without justification. The data suggest that in fact the compliance program may have been in fact counterproductive to our efforts to achieve energy independence and this disturbs me a great deal.

The Senator from Kansas does not wish to suggest that the information we have received and the apparent conclusions we have drawn are the final word on the effects of the compliance program. However, this Senator addressed his concerns and conclusions to the Federal Energy Administrator, Frank Zarb, on March 5, and as of yet no response has been received that would indicate anything contrary to the conclusions suggested in my letter.

It is my feeling that the information I have received should be of great interest to the appropriate committees in Congress. The data is much too voluminous to insert in the CONGRESSIONAL RECORD at this point. However, I have directed my staff to make any information available to interested Senators or committees upon request. The suggestions made in my letter to Mr. Zarb may also be of interest.

INCONSISTENT ENFORCEMENT

One of the clearest indications from the data received is that the compliance program has been inconsistently applied across the country.

An example of this is the differences in the crude oil compliance program between region VII and region VI. Region VII is composed of Kansas, Nebraska, Iowa, and Missouri. In this region, only one State, Kansas, has any significant crude oil production. Kansas is the seventh ranking producing State nationwide. The total level of crude oil production in region VII is 187,000 barrels per day, which comes primarily from Kansas.

By comparison crude oil production in region VI amounts to 6,280,000 barrels per day. This is 33 times the amount of oil produced in region VII. Region VI includes the first, second, fourth, and sixth ranking States in crude oil production nationwide and includes the States of Texas, Louisiana, Oklahoma, New Mexico, and Arkansas.

While production in region VI dwarfs that of region VII, the results of the compliance program have been just the opposite. In region VII, the amount of refunds and penalties assessed were more than 3½ times the amount in region VI, as of June 30, 1975. The penalties in region VII amounted to $47,535, while no penalties at all were collected in region VI.

According to FEA figures there are more than 8½ times as many producers in Texas as in Kansas. Yet, during the period July 30 to December 31, 1975, 10 cases were closed in Texas on crude oil producers compared to 12 in Kansas.

EMPHASIS ON SMALL BUSINESS

The sharp differences between these figures raise some real questions about how the compliance program is run.

The Senator from Kansas does not claim to know all the answers. But some likely solutions seem apparent.

One possible answer is that the producers in Kansas are mostly small stripper crude producers that are tiny in comparison to those in the neighboring region. For example, the average production per well in Kansas is about 4 barrels per day to over 21 barrels per day in Texas. The data suggest that the FEA has found it much easier to assess overcharges and penalties against small producers and that the compliance program has concentrated on them.

This possibility seems even more likely because small producers do not have lawyers to read, interpret, and just keep track of the continuous stream of regulations, revised regulations, and retroactive regulations that come out of the Federal Energy Administration. Small producers do not have lawyers to deal with FEA investigators who allegedly have used strong-arm and high-pressure tactics to extract quick settlements from small producers.

EXAGGERATED PENALTIES

An example of how some FEA auditors work is to threaten a $2,500 penalty for a $20 overcharge error.

To the best of my knowledge, no producer has paid the maximum $2,500 fine for $20 overcharge error. However, the impact of a threatened $2,500 penalty from a Federal investigator to a small producer has frequently had a definite impact. It has been stated many times to this Senator that, by threatening to assess the maximum penalty for small errors or violations, Federal investigators have been able to obtain large penalty settlements from small producers, who were simply frightened by the prospect of a Federal lawsuit and by the threat of huge penalties.

MISDIRECTED EFFORTS

Some producers have indicated to me that if illegal activities are going on in the industry in Kansas and other States, FEA compliance people are not likely to detect them.

That is because FEA auditors spend their time going over run sheets that come in at the end of each month and which indicate the level of production and sales. Careful examination of these run sheets can and do turn up overcharges, as well as undercharges from producers to refiners. FEA auditors should and do require producers to refund overcharges, however, many overcharges are simply the result of human error and may be accompanied by undercharges as well. But producers receive no credit for errors that result in undercharges.

Many producers indicate to me that FEA audits of records usually do not turn up intentional violations, that they are mostly a waste of taxpayer money and of producers' time and effort that could be used more constructively in producing oil. Reportedly, some violations occur out in the oilfield, such as transferring oil from one well to another well, in order to get a well in the "stripper" category of production. This would require investigators to get out in the oilfield and find out what is going on. But this is not done.

The essence of this is that producers must spend a great deal more time going over their paperwork to insure that all figures are correct and that no errors in the accounting have been made. Producers spend a great deal more time responding to questions of FEA auditors, that in the producers' view, result in preventing few intentional violations.

DISINCENTIVE TO PRODUCTION

Many producers have complained to me that the net effect of the efforts of FEA compliance personnel is to occupy a great deal of time and effort that could be better spent maintaining maximum production of petroleum.

But as this Senator understands, some regulations clearly do provide a disincentive for maintaining the maximum level of production. One example is the rule that a well must produce at less than 10 barrels per day for 1 entire year before it can be considered a stripper well.

The result of this regulation is that producers simply put a low priority on maintaining production from these wells.

For example, a producer may have a well that went to less than 10 barrels of output per day some time after the program began. But before that producer can sell the oil for the higher "stripper crude" price, he must establish a record for 1 year of less than 10 barrels per day output.

In some cases like this, it comes to a choice of using a quicker but more expensive repair technique to keep a well of this type going. Or it may come to a choice of which of two or more wells should receive the highest priority on repairing. If a well is producing at the stripper level but does not have the 1-year record established, the highest priority will obviously not be placed on it.

The net result comes down to a less than maximum output.

Another example of disincentives in the regulations is the question of counting injection wells.

Let us say a producer has a total of five producing wells. They may be putting out a total of 15 or 20 barrels of oil per day. They would clearly all be stripper wells and be receiving the stripper crude price.

The producer may determine that if one well is turned into an injection well, so as to provide a waterflood, the output for the remaining four producing wells can be increased. After doing this, the producer may find that the output from the four producing wells would be 45 barrels per day. If the producer were allowed to consider the output from the original five producing wells, he would receive the stripper crude price for his production.

However, the Federal Energy Administration does not allow including an injection well that was formerly a producing well in determining the average level of output. So the producer who raised his level of output from five wells with 15 barrels per day to 45 barrels per day from four producing wells and one injection well would find that he could not receive the stripper crude price.

In some cases such as this, producers have found that they are actually losing money by operating the injection pump. It costs a great deal of money to operate an injection well. The electricity for running the electric waterpump may run as high as $2,000 or $3,000 per month.

A producer who finds himself pushed out of the stripper crude category into the lower price category may simply turn off his injection well.

The result is a lower level of production.

Mr. President, our economic system is built on incentives. Many of the regulations and compliance efforts of the FEA destroy the incentive to maintain the maximum level of oil output.

The result is contrary to our national and public interest. It is my strong feeling that the appropriate committees in Congress should look into this matter and take responsible corrective action to encourage the maximum energy production that we need.

It is very disturbing to this Senator that 1,300 of the 3,400 employees of the FEA are involved in the regulatory program. This is more than one-third of all the FEA employees.

Over one-third of all FEA people are involved in maintaining compliance with the rules and regulations and paperwork requirements of the Federal energy program.

They do not do a single thing to encourage the production of one additional barrel of oil. On the contrary they spend a great deal of taxpayers money enforcing rules that may actually discourage additional production. They allegedly harass people in the industry and consume a great deal of time and effort that could be better spent maintaining the maximum level of energy output.

It is even more disturbing that the FEA is requesting an additional 600 compliance personnel in order to make the program half again as large.

It is the intent of this Senator to obtain more specific answers before he agrees to that request. Hopefully, other Senators will do the same.

QUORUM CALL

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

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

The legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 1 o'clock, with statements therein limited to 5 minutes each.

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HELMS). The Chair, on behalf of the Vice President, appoints the Senator from New Hampshire (Mr. DURKIN) and the Senator from Pennsylvania (Mr. SCHWEIKER) to the 29th Assembly of the World Health Organization, to be held in Geneva, Switzerland, May 4–22, 1976.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

PROPOSED SUPPLEMENTAL APPROPRIATION FOR JOBS FOR DISADVANTAGED YOUTH—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. FORD) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations:

To the Congress of the United States:

Today I am formally transmitting to the Congress a request for a supplemental appropriation of $528 million which will support 888,100 jobs for disadvantaged youth this summer.

The Secretary of Labor has advised me that the unemployment picture for youth is expected to improve this year over last year. However, the problem of youth unemployment continues to be a difficult one, especially in the summer months when students are out of school and seeking work. The action I am proposing today, combined with other related summer youth programs, will mean Federal efforts will produce a summer job for 1.5 million young people.

If Congress acts in a timely fashion on this request for a supplemental appropriation, the Summer Youth Employment Program will get funds where they are needed while they can be most useful. The appropriation I am requesting will create the same number of jobs at the local level as we achieved last summer.

I have made my request to the Congress in the form of an urgent supplemental. Many areas begin their programs in May, and sufficient lead time is required to ensure proper planning for so large a program. It is important that the employment provided to these young people be meaningful, and that the program operate with maximum efficiency.

I also want to call attention again to the importance of prompt Congressional action on a related matter—my request for $1.7 billion in supplemental funding for public service jobs under the CETA program. This request, contained in my 1977 Budget, would provide funds needed to prevent layoffs from Federally supported public service jobs programs. A number of local sponsors are already facing the prospect of terminating their programs because their funds are running out.

This public service employment program is already employing people. Whatever differences I may have with the Congress over other aspects of the job creation issue, there is no reason why local officials and individual job holders should be held in suspense or in fear of being laid off.

Action is essential on both the summer youth and the temporary employment assistance supplemental requests. I hope the Congress will act quickly to pass both measures.

GERALD R. FORD.

THE WHITE HOUSE, *April 8, 1976.*

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 268) to designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes, with

amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10686. An act to amend title 13, United States Code, to require that population census records be transferred to the National Archives within fifty years after a census, and that such records be made available after seventy-five years to persons conducting research for genealogical, historical, or medical purposes; and

H.R. 11337. An act to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 10686. An Act to amend title 13, United States Code, to require that population census records be transferred to the National Archives within fifty years after a census, and that such records be made available after seventy-five years to persons conducting research for genealogical, historical, or medical purposes. Referred to the Committee on Post Office and Civil Service, the Committee on the Judiciary, and the Committee on Government Operations, jointly, by unanimous consent.

H.R. 11337. An Act to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes. Referred to the Committee on Post Office and Civil Service.

PETITIONS

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

House Resolution No. 421, adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture and Forestry:

"H.R. No. 421, H.D. 1

"House resolution relating to United States Department of Agriculture reform of the Food Stamp Program Rules and Regulations

"Whereas, the food stamp program was created by Congress for the purpose of permitting low-income households to purchase a nutritionally adequate diet; and

"Whereas, food stamps is the only nationwide assistance program responsive to the needs of both those who are persistently poor and those experiencing temporary poverty; and

"Whereas, the rapid increase in food stamp participation from 14 million to 19 million in the period between August, 1974, and June, 1975, was largely due to a 70% rise in unemployment levels; and

"Whereas, increased participation and consequent changes in the composition of the program have raised questions concerning its scope and costs, with criticism being particularly directed to certain structural features of the food stamp law; and

"Whereas, the United States Congress is presently considering major food stamp reform measures, one of which was proposed by the Administration to represent its concerns; and

"Whereas, the Administration, through the United States Department of Agriculture, has acted in bad faith by promulgating new federal rules and regulations with plans for implementation by June 1, 1976 while Congress is actively debating the various alternatives; and

"Whereas, the effect of the proposed rules and regulations would be to cut participation to 13 million by reducing eligibility to the poverty level; replacing itemized deductions with a standard deduction of $100 per household; and instituting a 90 day budgeting period for calculating income; and

"Whereas, the impact on Hawaii, with its high standard of living, would be to cut total participation by one-third, from 100,000 to 70,000 beneficiaries per month; and to reduce benefits by 30% for those deemed eligible; now, therefore,

"Be it resolved by the House of Representatives of the Eighth Legislature of the State of Hawaii, Regular Session of 1976, that the Congress of the United States is requested to direct the Secretary of the United States Department of Agriculture to cease any promulgation or implementation of the proposed food stamp regulations until such time as Congress has acted; and

"Be it further resolved that certified copies of this Resolution be transmitted to members of Hawaii's Congressional Delegation; the President of the United States Senate; the Speaker of the United States House of Representatives; the respective committees on Agriculture of the Senate and House of Representatives; the Secretary of the United States Department of Agriculture; the Food Stamp Division, Food and Nutrition Service branch of the United States Department of Agriculture; and to the President of the United States."

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF LABOR—(S. DOC. NO. 94-166)

A communication from the President of the United States transmitting a request for the fiscal year 1976 in the amount of $528,420,000 for the Department of Labor's summer youth employment program (with accompanying papers); to the Committee on Appropriations and ordered to be printed.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1976—SUPPLEMENTAL REPORT (REPT. NO. 94-705, PART II)

Mr. HATHAWAY. Mr. President, I submit a supplemental report to S. 3184, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976, in order to correct an inadvertant omission from the committee report on that bill.

The PRESIDING OFFICER. The report will be received and printed.

FEDERAL-AID HIGHWAY ACT—CONFERENCE REPORT (REPT. NO. 94-741)

Mr. BENTSEN, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8235) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, which was ordered to be printed.

HEALTH RESEARCH AND HEALTH SERVICES AMENDMENTS OF 1976—CONFERENCE REPORT (REPT. NO. 94-743)

Mr. KENNEDY. from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7988) to amend the Public Health Service Act to revise and extend the program under the National Heart and Lung Institute, to revise and extend the program of National Research Service Awards, and to establish a national program with respect to genetic diseases; and to require a study and report on the release of research information, which was ordered to be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Public Works:

S. Res. 426. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the conference report to accompany H.R. 8235, the Federal-Aid Highway Act of 1976 (referred to the Committee on the Budget).

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments and an amendment to the title:

H.J. Res. 890. A joint resolution making emergency supplemental appropriations for preventive health services for the fiscal year ending June 30, 1976, and for other purposes (Rept. No. 94-742).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. DOLE, from the Committee on Agriculture and Forestry:

M. R. Bradley, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

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

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that H.R. 10686 and a companion bill (S. 3279) introduced today by Mr. Moss be referred jointly to the Post Office and Civil Service Committee, the Judiciary Committee, and the Government Operations Committee.

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

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. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3268. A bill to amend the Federal Aviation Act of 1958 to change the penalty applicable to section 1101, Hazards to Air Commerce. Referred to the Committee on Commerce.

By Mr. FONG:

S. 3269. A bill for the relief of Chiu-Ping Haskell. Referred to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. DURKIN, Mr. FONG, Mr. GRAVEL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MAGNUSON, Mr. MCINTYRE, Mr. MUSKIE, Mr. STEVENS, Mr. STONE, Mr. THURMOND, Mr. HELMS, Mr. TOWER, and Mr. WILLIAMS):

S. 3270. A bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets. Referred to the Committee on Finance.

By Mr. BARTLETT:

S. 3271. A bill to amend the Internal Revenue Code of 1954 to revise certain inequitable provisions relating to the limitations on percentage depletion in the case of oil and gas wells. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 3272. A bill to exempt from Federal taxation the obligations of certain nonprofit corporations organized to finance student loans and to provide that incentive payments to lenders of those student loans shall not be regarded as yield from the student loans for the purpose of determining whether bonds issued by such nonprofit organizations are arbitrage bonds. Referred to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. MCCLURE, Mr. HATFIELD, Mr. PACKWOOD, Mr. MANSFIELD, and Mr. METCALF):

S. 3273. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Nee-Me-Poo Trail as a National Scenic Trail. Referred to the Committee on Interior and Insular Affairs.

By Mr. ABOUREZK (for himself, Mr. GRAVEL, and Mr. MCGOVERN):

S. 3274. A bill to establish certain rules with respect to the appearance of witnesses before grand juries in order better to protect the constitutional rights and liberties of such witnesses under the fourth, fifth, and sixth amendments to the Constitution, to provide for independent inquiries by grand juries, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. TALMADGE (for himself, Mr. BENTSEN, Mr. DOMENICI, Mr. HOLLINGS, Mr. MONTOYA, Mr. MORGAN, Mr. NUNN, Mr. STONE, Mr. THURMOND, and Mr. TOWER):

S. 3275. A bill to amend sections 358, 358a, 359, and 373 of the Agricultural Adjustment Act of 1938 and title I of the Agricultural Act of 1949 for the purpose of improving peanut programs, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. ROTH:

S. 3276. A bill to amend title 18, United States Code, so as to provide for mandatory minimum sentences with respect to certain offenses against victims 60 years of age or older. Referred to the Committee on the District of Columbia.

S. 3277. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1965 to add specific requirements that the comprehensive State plan under that act include provisions for the prevention of crimes against the elderly, and for other purposes. Referred to the Committee on the Judiciary.

S. 3278. A bill to amend the act entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, relating to offenses against individuals 60 years of age or older. Referred to the Committee on the District of Columbia.

By Mr. MOSS:

S. 3279. A bill to amend title 13, United States Code, to require that population census records be transferred to the National Archives within 50 years after a census, and that such records be made available after 50 years to persons conducting research for genealogical or other proper purposes. Referred to the Committee on Post Office and Civil Service, the Committee on the Judiciary, and the Committee on Government Operations, jointly, by unanimous consent.

By Mr. MATHIAS (for himself, Mr. BROOKE, and Mr. JAVITS):

S. 3280. A bill to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service provided for under Federal law. Referred to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

By Mr. KENNEDY (for himself and Mr. ROTH):

S. 3281. A bill to provide for the efficient and regular distribution of current information on Federal domestic assistance programs. Referred to the Committee on Government Operations.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. MATHIAS, Mr. MORGAN, Mr. NUNN, Mr. PASTORE, Mr. PELL, Mr. HUGH SCOTT, and Mr. TALMADGE):

S. 3282. A bill to authorize the establishment of the Eutaw Springs National Battlefield Park in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3268. A bill to amend the Federal Aviation Act of 1958 to change the penalty applicable to section 1101, Hazards to Air Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Federal Aviation Act of 1958 to change the penalty applicable to section 1101, Hazards to Air Commerce, and I ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD together with the text of the bill.

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

S. 3268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 902(a) of the Federal Aviation Act of 1958 is amended by inserting "section 1101 and" after "except".

SEC. 2. Section 901(a)(1) of the Federal Aviation Act of 1958 is amended by inserting "1101 or" before "1114".

SEC. 3. Section 901(a)(2) of the Federal Aviation Act of 1958 is amended by inserting "section 1101 or" before "titles III".

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 11, 1976.

HON. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for introduction and referral to the appropriate committee is a draft bill "To amend the Federal Aviation Act of 1958 to change the penalty applicable to section 1101, Hazards to Air Commerce."

Section 1101 of the Federal Aviation Act of 1958 requires all persons to give the Department adequate public notice, in the form and manner prescribed by Departmental regulations, of the construction or alteration of any structure where notice will promote safety in air commerce. The sanction currently applicable to a violation of section 1101 is contained in section 902(a) of the Act. That section provides a criminal penalty of not more than $500 for the first offense and not more than $2,000 for any subsequent offense.

The purpose of this bill is to amend the Federal Aviation Act of 1958 so that persons who violate section 1101 would be subject to a civil penalty under section 901(a) of the Act and not a criminal penalty under section 902(a). Section 901(a) provides for a civil penalty of not more than $1,000 for each violation. This amendment would allow the Department to compromise a civil penalty and would provide greater flexibility in the administration of section 1101.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

SECTION-BY-SECTION ANALYSIS

A bill to amend the Federal Aviation Act of 1958 to change the penalty applicable to section 1101, Hazards to Air Commerce

Section 1101, as implemented by Part 77 of the Federal Aviation Regulations, requires that an individual who intends to build a structure higher than 200 feet above ground level must give notice to the FAA Administrator. Anyone who fails to give notice is subject for the first offense to a criminal penalty under section 902(a) of the Act of not more than $500 and for any subsequent offense to a fine of not more than $2,000. Under this bill, anyone who fails to comply with section 1101 would be subject instead to a civil penalty under section 901(a) of not more than $1,000 for each violation.

Section 1 of the bill amends section 902(a) of the Federal Aviation Act to add section 1101 to the enumerated parts of the Act to which section 902(a) does not apply.

Section 2 of the bill amends section 901(a)(1) of the Act to add section 1101 to the enumerated parts of the Act to which section 901(a)(1) does apply.

Section 3 of the bill amends section 901(a)(2) of the Act to add section 1101 to the enumerated parts of the Act to which section 901(a)(2) does apply.

By Mr. PACKWOOD (for himself, Mr. DURKIN, Mr. FONG, Mr. GRAVEL, Mr. HATHAWAY, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MAGNUSON, Mr. MCINTYRE, Mr. MUSKIE, Mr. STEVENS, Mr. STONE, Mr. THURMOND, Mr. HELMS, Mr. TOWER, and Mr. WILLIAMS):

S. 3270. A bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets. Referred to the Committee on Finance.

Mr. PACKWOOD. Mr. President, I am today introducing legislation to reduce the tariff on imported, synthetic fiber fish nets and netting. These kinds of nets are dutiable under U.S. Tariff Schedule item 355.4560 which imposes a tax of 32.5 percent ad valorem plus 25 cents

per pound on all such netting and nets imported into the United States.

This high tariff imposes an unconscionable financial burden on U.S. commercial fishermen, many of whom use imported nets despite what they have to pay for them. It is interesting to note that the tariffs on vegetable fiber nets have been reduced over the years but not the tariff relating to these synthetic fiber nets. For example, the tariff on cotton nets was established at 40 percent ad valorem by the Trade Act of 1930 and reduced over the years to its present 17.5 percent. Similarly, the tariffs on other vegetable fiber nets started out at 45 percent in 1930 and now have leveled out to a mere 11 percent. But the tariff on synthetic fiber nets and netting, the kind used principally by commercial fishermen, remains right where it always has been, at 32.5 percent plus 25 cents per pound. This amounts to an average ad valorem tax of approximately 45 percent.

The bill I am introducing would reduce the tariff on these manmade fiber type nets and netting by 50 percent or to 16.25 percent ad valorem plus 12.5 cents per pound. The reduction would be temporary until the United States is able to secure a permanent one through current trade negotiations.

Mr. President, 30 of our 50 States have commercial fishing industries that rely heavily on the use of nets for catching fish. Our coastal State fishermen use nets of all varieties, many of which are imported. These nets range in size and cost from a gill net used in the Pacific Northwest for catching salmon to the huge purse seine nets required by our wide ranging tuna fleets. And yet, the duty on any imported net is enough to take a sizable bite out of any fisherman's annual income. The gill net I mentioned is one of the least expensive of all commercial fishing nets. Such a net might cost $4,000, for example, and weigh 500 pounds. The duty computed under present tariff laws, would be 32.5 percent of $4,000 plus 25 cents per pound or a total of $1,425. Compare that with the tuna purse seine net which may cost upwards of $200,000 and weigh 50,000 pounds. Computed in the same manner the duty on such nets would be $77,500.

Nor should we ignore our Great Lakes commercial fishery in our evaluation of the fish net tariff on the commercal fishing industry. Fully seven States participate in this fishery and nets are the sole means of catching fish here. The National Marine Fisheries Service estimates that approximately 100,000 nets are currently at work in the area, over 65,000 of which are gill nets. It has been estimated that at least 50 percent of these gill nets have been imported.

It should be noted that the high tariff on imported nets serves only to encourage illicit buying on the part of commercial fishermen struggling to make ends meet. Two kinds of such illegal purchases are now common practice. First, those fishermen in the Great Lakes Region and those in coastal States with easy access to Canada simply slip across the border and buy nets duty free. Canada has no tariff on imported nets.

The second type of foreign net buying that is only encouraged by our tariff laws is that done be our fishermen whose vessels have the capability of stopping in at foreign ports and purchasing their net requirements in these ports. The Bureau of Customs has now promulgated regulations to prohibit such activity but there is little chance they will succeed. As long as the duty on imported nets remains so high, there is an almost irresistible incentive for our fishermen to circumvent the tariff.

Mr. President, it is easy to see that our high tariff on imported nets is serving only to make criminals out of many U.S. commercial fishermen who are merely trying to make a living. And if some of our commercial fishermen are able to circumvent the net tariff by purchases in foreign countries, how are our other fishermen who do not have this capability supposed to compete with them?

One may inquire at this juncture why we have any duty on imported nets. It is obvious that, if the duty was completely removed, we would not have to worry about our fishermen taking their net business to Canada and other foreign countries. The truth is that the remnants of a once thriving net manufacturing industry still exist in this country. There remains today a total of 14 companies scattered throughout 10 States that manufacture fish netting. These companies employ a total of 1,701 persons. I am certain that Congress would not accept a bill that decimates in one blow the high level of protection the net tariff has afforded the industry for the last 45 years.

I believe that the bill I am introducing today presents a fair compromise. On the one hand, it continues to provide substantial protection for our net manufacturing industry. At the same time, significant relief is afforded our commercial fishermen whose economic survival is dependent on the fish net. I would also be remiss not to mention the consumer at this point who can only stand to benefit if we make it less expensive for the fisherman to get his product to market.

Mr. President, there are approximately 165,000 commercial fishermen in this country who need our help. I can assure you they are not looking for handouts or subsidies. All they want to do is earn a decent living. One of the things that stands in the way of this goal is the high tariff on imported nets. This is a matter that we in Congress can do something about. The bill I am introducing gives us an opportunity to take that action now.

Mr. STEVENS. Mr. President, today legislation which I have cosponsored is being introduced to reduce the tariff on imported synthetic fiber fish nets and netting. The current U.S. tariff schedule imposes a 32.5-percent ad valorem plus 25-cents-per-pound tax on all synthetic fiber nets imported into the United States. The majority of American commercial fishermen use this type of netting.

I concur with Senator PACKWOOD, the sponsor of this legislation, when he says that "this high tariff imposes an unconscionable financial burden on U.S. commercial fishermen." Mr. President, the commercial fishing industry in recent years has had serious financial trouble. Many of this Nation's commercial fishermen are earning a marginal living. In the western area of my State, for example, the average net income after expenses of a salmon fisherman has dropped from $12,000 a year to just under $800 a year. The import duty on a typical salmon purse seine net is about $1,400. I find it most distressing that fishermen, whose earnings rank them in the poverty level, should have to pay a $1,400 import tax on their fish nets.

The passage of H.R. 200 insured that the species of fish found off the U.S. coast would be protected through sound conservation and management regulations. All of us who worked to insure the passage of the Magnuson Fisheries Management and Conservation Act believe that it will be the turning point in the steady financial decline of the U.S. fishing industry. In order for the fishing industry to recover and grow it must be able to operate profitably. The tax on synthetic fiber nets, which incidentally is roughly 45 percent of their value, is a substantial impediment to that end. A reduction in the cost of fish nets and netting is one of the first things we must accomplish in order to revitalize the U.S. fishing industry.

This legislation would reduce the tariff on synthetic fiber nets and netting by 50 percent, or to 16.25 percent ad valorem plus 12.5 cents per pound. This reduction would go into effect until a permanent reduction could be reached through international trade negotiations.

In very practical terms, Mr. President, this legislation would save the Nation's 165,000 commercial fishermen substantial amounts of money which they would otherwise have to pay into the U.S. Treasury. I would urge the Senate to expeditiously consider and pass this legislation.

By Mr. BARTLETT:

S. 3271. A bill to amend the Internal Revenue Code of 1954 to revise certain inequitable provisions relating to the limitations on percentage depletion in the case of oil and gas wells. Referred to the Committee on Finance.

Mr. BARTLETT. Mr. President, when Congress passed the Tax Reduction Act of 1975, it repealed percentage depletion for oil and gas producers. A limited exemption was granted, however, for independent producers and royalty owners.

The final legislation was drafted very quickly in the waning hours before last year's Easter recess. Because of technical problems in the complex independent producer exemption, a number of independents have also lost percentage depletion, I do not believe Congress intend to take depletion from these independents. The intent behind Congress action was to repeal depletion for the major oil companies.

Independents play a very important role in our Nation's efforts to increase oil and gas production. They drill over 80 percent of the wells and discover 50 per-

cent of our oil and gas reserves. Percentage depletion enables independents to obtain investment capital from both internal and external sources and is an incentive to drill, complete, and produce oil and gas wells. Our Nation's oil and gas production would be greater if all independent producers received depletion. Some of them should not be denied percentage depletion because of technicalities in a very complex tax law.

The troublesome sections in the independent producer exemption are the transfer of property provision, the limitation on taxable income, and the retailer exclusion.

I am introducing today legislation which will resolve these problems. The bill does three things:

First. The transfer provision (sec. 613A(c)(9)) has been rewritten so that bona fide property transfers for legitimate business reasons can take place without the loss of percentage depletion.

The current "Transfer of Oil and Gas Property" provision prohibits the transferee of an oil or gas property from receiving depletion even if he was otherwise qualified under the exemption. I believe Congress intent with this provision was to prevent a producer from circumventing the exemption by transferring properties so that he could receive more depletion than permitted. The intent was not to discourage transfers of oil or gas properties which have historically taken place for estate planning, financing, and other normal business reasons and which have helped the independent producer in his efforts to find and produce oil and gas.

Second. The "Limitation Passed on Taxable Income" provision (sec. 613A(d)(1)) has been amended so that a producer's taxable income for the purposes of applying the 65 percent limitation would be computed without first deducting intangible drilling and dry hole costs.

Under the current law, percentage depletion is limited to 65 percent of taxable income. This is a disincentive to the active driller because he loses depletion if he drills enough wells—either exploratory or development—to reduce taxable income below about one-third of gross. Our energy tax laws should be designed to encourage drilling expenditures. My bill would do just that by not limiting the amount of depletion the active producer could receive because of drilling expenditures he was made.

Third. The retailer and refiner exclusion provisions have been combined so that an independent producer would have to be both a refiner and a retailer before he would lose deletion.

The "Retailers Excluded" provision (sec. 613A(d)(2)) was intended to prevent major oil companies from retaining depletion. However, it is written very broadly and has actually caused many independents to be denied depletion also. By combining the retailer and refiner requirement as provided in this bill, those independents who have income because they retail a small amount of oil or natural gas or "a product derived from oil or natural gas" would not be denied the percentage depletion deduction.

Mr. President, I ask unanimous consent that my bill, together with several letters to me from oil and gas producers concerning these problems be printed in the RECORD.

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

S. 3271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFERS OF PROPERTY.

Section 613A(c)(9)(B) of the Internal Revenue Code of 1954 (relating to transfer of oil or gas property) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by striking out the period at the end of clause (i) and inserting in lieu thereof a comma and the word "or", and

(3) by adding at the end thereof the following new clause:

"(iii) any other transfer of property the principal purpose of which is not the avoidance of income tax liability, including, but not limited to, transfers in connection with estate planning, financing arrangements, or other bona fide business purposes.".

"SEC. 2. LIMITATION BASED ON TAXABLE INCOME.

Section 613A(d)(1) of the Internal Revenue Code of 1954 (relating to limitation based on taxable income) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new subparagraphs:

"(D) any expenses paid or incurred in connection with the location, exploration, and development of oil or gas wells which are incapable of producing oil or gas in quantities which are sufficient to justify operating the well for production purposes, and

"(E) expenses deductible under section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells).".

SEC. 3. EXCLUSION OF RETAILERS AND REFINERS.

Section 613A(d) of the Internal Revenue Code of 1954 (relating to limitations on application of subsection (c)) is amended—

(1) by inserting after "taxpayer" the first time it appears in paragraph (2) the following: "described in paragraph (4)", and

(2) by striking out "the taxpayer" the first time it appears in paragraph (4) and inserting in lieu thereof the following: "a taxpayer described in paragraph (2)".

SEC. 4. EFFECTIVE DATE.

The amendment made by this Act apply to taxable years ending after December 31, 1974.

Oklahoma City, Okla., May 1, 1975.

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

DEAR SENATOR BARTLETT: I just heard of a provision in the *Tax Reduction Act of 1975* which, if operative as I understand it, will have major deleterious effects on independent geologists such as myself. I understand that the depletion allowance has been removed for assignees of oil and gas interests as well as for major companies. I don't know if this applies to assigned overriding royalty interests.

As you know, geologists who are "independent" are actually independent businessmen. Their stock-in-trade is experience and imagination, usually presented in the form of "prospects" and sold to independent oil and gas exploration companies. The independent geologist is the principal generator of ideas acted upon by the independent segment of the industry.

An independent geologist gives up the security of company salaries, insurance and annuity programs, and accepts the risk of substituting for them with professional fees and a hoped for interest in oil and gas production which he finds. If he is lucky, he finds and has a small interest in enough production to get his kids through college and himself and wife through old age. The continuing income from production, after his working years are over, is his equivalent of a pension or annuity.

Such geologists usually obtain their interests in production by terms agreed upon when the prospect is sold. Those terms usually include the assignment of an overriding royalty, or a carried working interest, or a reversionary interest as part of the total compensation for the deal. The operating company usually obtains ownership of the prospect and assigns therefrom a small interest to the geologist.

As I understand the new tax law, the independent geologist will not be allowed the benefit of the depletion allowance applied to income which his efforts have generated. It seems incredible to me that this person, upon whose ideas the independent oil business depends, may be denied the depletion allowance for his own account.

Can you send a copy of the *Tax Reduction Act of 1975*, together with any clarification on this point, to me at the letterhead address?

If the fact of the matter is about as I have expressed it here, is there a possibility that remedial legislation may be enacted?

As you know, the depletion allowance has the effect of a subsidy in the oil business. By being available to wealthy persons, it induces them to invest in the oil business, in effect subsidizing the American consumer with their personal wealth. It's philosophical origin is rationally defensable. And it is an integral part of my daily business finances and my personal long term plans.

If the benefits of the depletion allowance are denied to the oil business, geologists, and investors, then either there will be less activity looking for new oil and gas, or the government will have to provide a direct subsidy (or worse, start up an ineffecient government oil company), or the American consumer will have to pay even more for all the things that oil and gas provide for us.

I appreciate your own efforts in behalf of the American consumer and his oil industry. And I will be especially grateful if anything can be done to correct this particularly onerous provision in the Tax Reform bill.

Thank you.

Yours truly,

RALPH H. ESPACH, JR.,
Certified Professional Geologist.

FLYNN ENERGY CORP.,
Tulsa, Okla, July 11, 1975.

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

DEAR SENATOR BARTLETT: It is our understanding that you are in the process of drafting amendments to the section of the 1975 Tax Reduction Act which deal with the repeal of percentage depletion and have asked members of the oil and gas industry for advice and suggestions. Flynn Energy Corp. is an independent oil and gas company whose activities include exploration and development drilling programs offered privately to qualified investors. We are, of course, concerned about the effects the new law will have on our operations and wish to

submit the following suggestions for amendments on items which are of major importance to us;

(1) The exclusion of retailers from the benefits of percentage depletion does not provide a clear definition of "retail outlet". Obviously, the intention of the provision was to exclude major oil companies owning and operating service stations from the exemption. It is our understanding that the Treasury, in prescribing regulations, intends to define these terms broadly enough to include not only the major oil companies but a majority of the small independent producers. An example of a transaction which could possibly be construed as a retail sale is a casual sale of fuel for use on a non-owned lease. It is not uncommon for the operator of a neighboring lease to purchase a small quantity of fuel from one of our leases. However, this is certainly not part of our business activity. Another example would be where we sell gas directly to a manufacturing plant to be used in their operation, in lieu of selling to a pipeline company who in turn sells to the plant. There is no processing, no mark-up, no marketing operation or any other activity which would be characteristics of a retail sale. In our opinion, neither of these transactions places us in the category of a retail business such as what was intended by this particular provision. Both should be considered wholesale transactions. The law should be amended to provide an adequate definition of "retailer" and "retail outlet" which would give the result intended by Congress on its enactment, i.e. to repeal depletion for major oil companies while retaining it for independents such as ourselves.

(2) Concerning the provision denying percentage depletion on proven properties transferred after December 31, 1974, there is no adequate definition of a proven property. As it now is written, a property is a proven property if it's principal value has been demonstrated by prospecting or exploration or discovery work. Could this mean that a property neighboring a producing property could be considered proven even before drilling has commenced? If this is the case, obtaining a lease in the vicinity of a producing property would mean the denial of depletion on that lease. As you must know from your experience in the oil and gas industry, a property is never proven until it is drilled and producing. This definition should be amended to clearly state that a property is proven when it is producing. This would be consistent with the apparent intent to encourage drilling by allowing depletion to the one who withstands the risk of drilling the well, while denying it to the one who purchases production.

(3) The same provision discussed in (2) above also fails to adequately define "transfer." It is said to include the subleasing of a lease, but to not include the transfer of property at death or a transfer to a controlled corporation when certain conditions are met. There are many other types of transactions which should also be exempted from the transfer rule. As stated before, the apparent intent of this provision was to allow depletion only to the one who withstands the risk and expense of drilling a well. In the case of a drilling fund formed as a partnership, the partners making the contributions to be used for drilling are taking a risk just as if they had drilled the well individually. Why then should they be penalized if the properties are transferred to them in a distribution from, or on dissolution of, the partnership? To further substantiate this line of thought, depletion under this particular section of the law is computed at the partner level instead of by the partnership. Aren't the partner's then considered the beneficial owners of the properties? For these reasons, the distribution of properties from a partnership to a partner should not be considered a transfer under this section since the ownership has not changed and should be so stated in the law.

We appreciate this opportunity to express our concerns and opinions and will be following the development of any amendments with much interest.

Very truly yours,

FLYNN ENERGY CORP.,
DON M. FLYNN,
President.

KIRKPATRICK,
Oklahoma City, Okla., June 19, 1975.

Re problems in the Tax Depletion Act of 1975.

HON. DEWEY BARTLETT,
Russell Senate Office Building,
Washington, D.C.

DEAR DEWEY: We have been advised by our C.P.A.'s that we will be denied Statutory Depletion on our production of Oil and Gas if we retail any refined product, or derivative of oil and gas. It is their opinion that I must dispose of our Supply business in order to retain depletion on oil and gas sales. However, this bill went into effect before we were given a chance to liquidate the Supply business, or consider an alternative.

I am an independent oil man producing less than 2000 barrels of oil per day. Along with twenty-five others, who are key employees of my organization, I own the Kirkpatrick Supply Company.

Kirkpatrick Supply Company sells a very small amount of plastic rope, pipe and various other such items. All combined they amount to less than 1% of the business. The stores are situated in isolated places and these items are handled as a matter of convenience to our 250 customers.

We neither manufacture nor process any petroleum products. Our cost or selling price could not possibly be influenced by our production of oil and gas. There is no logical connection.

It is interesting to consider the impact of the act on many thousands of royalty owners who are involved in some retail business. There are few, if any, who would not come under this act. Every such royalty owner would lose his depletion.

Under the present law as written without definition I have no alternative but to liquidate the Supply business and to discontinue exploration. There would be no incentive to expand the oil business, for without depletion allowance, I would go in debt in doing so. If I did nothing, I'd get the remaining income from the production and receive the depletion allowance.

If I did qualify for depletion allowance, I would not want to allow my production to exceed 2000 barrels of oil per day, for then again I'd lose my depletion. Incentive is completely blocked at 2000 barrels of oil per day.

In my opinion we should eliminate depletion entirely, or eliminate these confusing exceptions. Simply specify the barrels of oil per day that would apply to all producers large and small, and thereby clear up the turmoil.

Sincerely yours,

JOHN E. KIRKPATRICK.

CLOWE 66 OIL CO.,
Ardmore, Okla., May 13, 1975.

Senator DEWEY BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARLETT: In the tax bill passed March 26, 1975, (I believe it is H.R. 2166) having to do with percentage depletion among other things, there is a clause which effects me personally. The clause reads that Subsection (c) which deals with the "Exemption for Independent Producers and Royalty Owners" shall not apply in the case of any taxpayer who directly, or through a related person, sells oil or natural gas, or any product derived from oil or natural gas through any retail outlet.

I have been told that the exclusion is so broad that anyone owning as much as 5% interest in real estate used for a retail outlet for gasoline would lose his depletion allowance.

I am a wholesale distributor of Phillips 66 products and own several service stations. I also have working interests and royalty interests in several oil and gas leases. If I lose my depletion allowance, it will cost me several thousand dollars.

It appears that the Tax Bill of March 26, 1975, needs to be amended to exclude the very small producer and/or royalty owner from the provisions of the "Retailer Exclusion" referred to above.

Please let me hear from you about this.

You are doing a great job up there in Washington under very difficult circumstances. Thank you.

Most sincerely,

CHARLES E. CLOWE, Jr.

BERMAN J. SHAFER,
OIL AND GAS PRODUCER,
Wooster, Ohio, June 23, 1975.

Senator DEWEY BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: I understand that you are introducing an amendment which would correct inequities brought about by recent changes in the oil and gas depletion allowance.

I applaud your efforts in this direction as I have been very concerned about this very thing.

As an oil producer in Ohio, operating 90 wells I make direct retail sales of gas to two industrial plants from five wells. I hope my interpretation is wrong but I am afraid that I may lose percentage depletion on all my other production. Consequently, I am uncertain as to my future plans for drilling new wells. Where I formerly spent in excess of my depletion allowance for more exploration now I am not sure what funds if any are available.

I have two partners who also have oil interests in Michigan and Oklahoma and they express the same fear in that this inequity will extend to their activities in areas they operate because of their association with a retail sale in Ohio.

I also have reservations about the concept of losing depletion upon purchasing proven properties. I do not understand the rationale behind this section of the law. In our state I have had the opportunity of purchasing oil properties from operators who have been inefficient in production management. In this respect I feel that I am adding to the nation's oil reserves by continuing their production on a more efficient basis. Otherwise, these wells would be abandoned and lost forever. Now I am not interested in purchasing properties because depletion has been an important incentive to me for the expensive work necessary to rejuvenate oil and gas wells. And further the incentive to drill new wells on the same leasehold is gone.

I would heartily support your efforts to remove these inequities.

Very truly yours,

BERMAN J. SHAFER.

HON. DEWEY BARTLETT,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: I understand that you are introducing a technical amendment to correct the inequities in the recently enacted depletion laws.

I am the President of Ponderosa Oil Company, which is a small independent Ohio company and operate, or involved in, some 100 plus wells and have been drilling or participating in 15 to 20 wells per year over the past few years.

I also own stock in an independent oil field supply company in Ohio, which, naturally, handles and sells petro-chemical related products to the industry, and in interpreting the depletion laws my oil company and myself personally, would lose our right-of-depletion because of the inter-relationship of the two companies.

I certainly feel that this was not the intention of our Congress in the drafting of these laws to cripple the independent producer, or individual investor, and being associated in the supply business and close to many small independent producers who feel that through the broad and loose draftsmanship of these laws have reason to believe they are also going to lose their rights-for-depletion, such as—sale of wells, proven production, gas transporting, etc. . . ., which has caused a tremendous curtailment of drilling instead of encouraging exploration and development to relieve our energy crisis.

I support and applaud you wholeheartedly, and trust you may be able to get the true picture across as I am sure was the original intention of our Congress.

Sincerely,

PONDEROSA OIL CO.,
E. A. SMITH, *President.*

HALLIBURTON OIL PRODUCING CO.,
Oklahoma City, Okla., July 16, 1975.

Senator RUSSELL B. LONG,
Russell Senate Building,
Washington, D.C.
Senator HENRY BELLMON,
Dirksen Building,
Washington, D.C.
Senator DEWEY BARTLETT,
Russell Building,
Washington, D.C.
Representative JOHN JARMAN,
Rayburn Building,
Washington, D.C.

DEAR SIRS: We have available to us the Tax Reduction Act of 1975 from Commerce Clearing House, Inc. with fully detailed explanation of the new tax provisions as they apply to operators of oil and gas leases.

I am enclosing, which I am sure you have seen, a letter from Mr. C. John Miller, President, Independent Petroleum Association of America, to its membership with a brief summary of the provisions with respect to oil and gas depletion.

We are quite actively engaged in the exploration for new oil and gas reserves and also have several development wells to drill, but our production to date is less than 2,000 barrels per day. It is only natural that successful Companies are looking for some kind of diversification and yet we find that the new tax laws, literally interpreted, preclude our participation in any project involving any "derivative" of oil or gas. Mr. Miller in his summary explained this would include fertilizer, plastic, cosmetics and other derivatives.

We have been in consultation with auditors and attorneys and have been advised that cosmetics may be excluded.

We feel that the probable intent of Congress was to deny depletion to any Company who handled refined products, such as refined oil, gasoline, methane, propane, butane and other by-products, but was not intended, for example, to penalize in one instance an automobile dealer, or in another instance, retailers of men's and women's clothing, both of which contain derivatives of oil and gas.

Recently we have been approached by a young man to invest in a venture of his to develop and manufacture disposable coagulating forceps commonly used in practically all surgery; also disposable syringes and hypodermic needles which are entirely unrelated to the oil business.

No attorney has been able to give us a definite answer, nor have our auditors and we are wondering if you can give us your interpretation of the intent of Congress in passing the Act, without our having to wait for tax cases to be decided in the courts.

We appreciate the efforts you have put forth in our behalf and respectfully request that we be able to trade in a free market in the absence of price controls, so we may plan an exploration and development program for future years.

Yours very truly,

HALLIBURTON OIL PRODUCING CO.,
By C. E. DAVIS, *President.*

WESTHEIMER-NEUSTADT CORP.,
Ardmore, Okla., July 14, 1975.

Hon. DEWEY BARTLETT,
U.S. Senator,
Russell Senate Office Building,
Washington, D.C.

DEAR DEWEY: The enclosed copy of a letter, addressed to the Executive Director of the Oklahoma Independent Petroleum Association, was written by my attorney in an effort to point out important and discriminatory policies in the Tax Reduction Act of 1975.

The item specifically referred to in the letter is of utmost importance to many independent oil operators throughout the United States. It would certainly be a great help to all concerned for you to lend your best efforts in obtaining clarification and/or rectification of the problems enumerated in the letter.

I would certainly urge that you use your best efforts in obtaining the necessary revisions.

Yours very truly,

WALTER NEUSTADT, Jr.

KANSAS CITY, MO.,
July 10, 1975.

Re Tax Reduction Act of 1975.
Mr. HAL GIBSON,
Executive Director, Oklahoma Independent Petroleum Association, Tusla, Okla.

DEAR MR. GIBSON: Our firm represents Westheimer-Neustadt Corporation, a member of your Association, and we are writing to you at its suggestion to point out to you difficulties which we see as a result of the broad and rather vague language contained in Section 613A of the Tax Reduction Act of 1974 (the "Act").

As I am certain you are aware, Section 613A(c) of the Act provides for the continued availability of percentage depletion to certain small independent oil companies provided, among other things, they do not directly (or through a "related person") engage in the business of selling at retail "products derived from oil or natural gas". See Section 613A(d)(2).

The problem arises from the seemingly unlimited categories or types of products which could conceivably be "derived from oil". While it would seem that the legislative purpose would be adequately served by limiting the coverage of the phrase to products principally and directly derived from oil and natural gas, there is no indication in the statute (or from what we have heard orally from the Internal Revenue Service even in the Regulations currently being drafted) that the phrase will be so construed. The problems, as we envision them, are the following.

First, the language, unless limited by the regulations or corrective legislation, is sufficiently broad to include ownership in any retail business which sells even the slightest amount of merchandise which may have an oil or petrochemical base. It does not take much by way of example to highlight the ridiculous, almost ludicrous result which could spring from such an interpretation. For instance, an independent producer which owned a 5% or more interest in a retail business which has de minimus sales of household or small appliance oil would lose his percentage depletion. While the household oil may be clearly a product derived from oil, it would seem there should be some de minimus provision (stated in terms of dollar sales) to eliminate such a harsh result.

Secondly, oil-derived products have permeated a large portion of the consumer household goods market and are contained in one form or another, in greater or lesser degree, in whole or in part, in synthetic soft goods, household furniture and appliances, plastic products, and almost all other retail merchandise. Certainly, it was not intended, for instance, that a small independent petroleum operator be denied its percentage depletion simply because it owns an interest in a men's clothing store which handles some merchandise made of synthetic fabrics. The same would be true of an interest in an oil field equipment supply company which sells plastic gas cans or gaskets. It seems, therefore, that, in addition to the de minimus rule, it is also essential that the phrase "any product derived from oil or natural gas" be limited by regulation or corrective legislation to products which are more directly or primarily derived from oil or natural gas.

Thirdly, it is our suggestion that the regulations clarify the question of when "retailer" status is to be determined for purposes of the exclusion. It would seem most appropriate to determine that status on an annual basis and as of the last day of the taxpayer's taxable year, but there is currently nothing in the statute or legislative history to so indicate.

We are not certain you have been fully apprised of the magnitude of the problem caused by the new statute to many small independent operators, and wanted you to have the benefit of our thoughts on the matter. If you would like to discuss any aspect of this letter or if we can otherwise be of assistance to you, do not hesitate to contact us.

Sincerely,

SMITH, SCHWEGLER, SWARTZMAN & WINGER, INC.
G. ROBERT FISHER.

BELDEN & BLAKE OIL PRODUCTION,
Canton, Ohio, June 20, 1975.

Hon. DEWEY F. BARTLETT,
U.S. Senator, Oklahoma,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Belden & Blake Corporation, organized under the laws of the State of Ohio, is the owner of oil and gas leases which it has acquired from land owners for the purpose of drilling and development; as well as furnishing the personnel for proper care of production. Mr. Belden and myself, the owners of the controlling interests in said Corporation, organize limited partnerships and purchase leases from said Corporation for drilling at a fixed price and an override, which generates sufficient income to the Corporation to maintain oil and gas leases for future drilling. Said Corporation also owns pipeline which carries casing head gas and any other gas available and delivers the same to two industrial plants and a utility. Since gas is not available by reason of Federal controls, intrastate gas has become invaluable to industry to keep its doors open. We therefore are supplementing utility gas which is already being substantially curtailed.

Under the Tax Reduction Act of 1975, we interpret the Act to mean that we are a retailer and the Corporation as such is not entitled to depletion and we and other

stockholders who own five per cent (5%) or more of the stock are not entitled to depletion under the definition of related persons excluded under the Act.

Under the definition of a transfer of oil or gas property and the definition of a proven oil and gas property as defined in the Act neither any limited partnership organized by Mr. Belden and myself nor any limited partner would be entitled to depletion by the definition both of proven property and by the definition of transfer which includes a transfer from a partnership to the partners.

We respectfully request that you introduce remedial legislation for adoption which would exclude us from the definition of a retailer, would exclude the transfer from a partnership to its partners from the meaning set forth in the act and further would define proven value and proven oil and gas property as a producing property upon which there is already located a well drilled under the spacing laws provided in the State where located so that proven value would not apply to any undrilled lease or the undrilled portion of a lease.

We respectfully request that you introduce a technical amendment which would cover these matters and pursue the passage of the same to carry out the intention of Congress which was to permit depletion to the small independent producer.

Respectfully submitted,
BELDEN & BLAKE OIL PRODUCTION,
GLENN A. BLAKE, *General Partner.*

OHIO OIL & GAS ASSOCIATION,
Newark, Ohio.

Senator DEWEY BARTLETT,
Senate Office Building,
Washington, D.C

DEAR SENATOR BARTLETT: We understand that you are considering introducing a technical amendment correcting certain inequities brought about by recent changes in percentage depletion for oil and gas. We are receiving numerous inquiries and complaints concerning several sections of the new law. It appears that if these sections are strictly interpreted by the Internal Revenue Service, many of our small independent producers will lose their depletion completely. We do not believe that that was the intent of the Congress and if this is true, it needs correcting as soon as possible.

The problem areas are those relating to retail sales, proven oil and gas properties, transfers of oil and gas properties and the 65% limitation of total taxable income. In the case of retail sales, we believe the intent was to exclude the major integrated oil companies from depletion but it seems that many independents who are engaged in industrial self-help natural gas programs to aid other industries, and others who might have small pipelines, are also going to lose depletion because of these activities and because of other interests they may have that are not strictly related to production. We also believe that the restriction on purchasing so-called proven properties is far too broad and could possibly be interpreted to mean almost any property where someone may just think oil and gas will be found. A possible answer to correcting this would be to substitute producing property for proven property.

We are sure that you have received direct complaints from producers outlining their specific problems but we did want to let you know that this office has been contacted by many small producers who are reasonably sure that they will lose depletion. Obviously, if this is true, it will seriously curtail their ability to continue drilling for new reserves and even if some of them are wrong in their assumptions, the mere fact that this doubt and uncertainty is hanging over them is already causing them to sit back and do nothing for fear of being hurt even worse if they continue to drill. Obviously, something must be done to correct this intolerable situation and we support your efforts to achieve this end.

Sincerely.
OHIO OIL & GAS ASSOCIATION,
KIRK JORDAN,
Executive Vice President.

OKLAHOMA OIL MARKETERS ASSOCIATION,
Oklahoma City, Okla., May 14.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: The Oklahoma Oil Marketers Association shares your concern over the recently passed Tax Reduction Act of 1975, which repeals the depletion allowance.

One section of the bill which is of the utmost importance to our members is paragraph 229 which states that the independent producers and royalty interest exemption does not apply to anyone who sells any product through a retail outlet. As you are probably aware, we represent wholesale distributors of petroleum products who own, operate and/or supply branded and unbranded service stations in Oklahoma. Many of our members also have interests in production or have royalties and thus would be affected by this bill.

In reading this section of the bill, it appears that it could also include those who sell chemical fertilizers which are manufactured from natural gas.

The Association would appreciate your guidance as to how we might appeal this section or obtain a clarification to its direct effect on our members.

Thank you for your assistance and cooperation.

Cordially,
DAVE FELLERS,
Executive Vice President.

JOHN C. MASON,
OIL AND GAS DRILLING AND PRODUCING,
Millersburg, Ohio, July 7, 1975.

Senator DEWEY BARTLETT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: I understand you are introducing an amendment to correct some of the problems of the new laws on Depletion of Oil and Gas.

I'm an independent producer and drilling contractor in Central Ohio. My organization produced 75,000 Bbl. oil and 600,000 Mcf. of natural gas last year. I'm sure you realize this makes us small.

We drill our wells as joint ventures with 3 or 4 parties involved. 2 or 3 of my investors would seem to be in line to lose their depletion. One owns a local elevator building where fertilizer is sold, he has no part of the business, just owns the real estate. Another owns the real estate of a local gasoline station, another owns a business where plastic pipe is sold.

I feel sure Congress didn't intend to discourage these gentlemen from investing with me to try and make a few dollars and produce the marginal reserves in Central Ohio.

I'm taking the liberty of sending copies of this letter to our senators from Ohio. I've written to them both on energy matters in the past and received reasonable answers from both Senator Taft and Senator Glenn. They didn't always agree but I hope they can be persuaded to help in this case and other critical energy matters. At this time deregulation of natural gas is another vital necessity we need.

Yours truly,
JOHN C. MASON.

BUCKEYE OIL PRODUCING CO.,
Wooster, Ohio, July 2, 1975.

Hon. DEWEY F. BARTLETT,
Oklahoma Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I understand that you propose to introduce a technical amendment to the recently enacted depletion law to clarify certain provisions of this law.

We are independent oil and gas producers in Ohio. Our leases provide a limited quantity of free gas to the landowners. However, many landowners exceed the free gas, and we charge them for the excess at the prevailing market. This is an implied commitment under which we operate with the landowner. This also is the case of most, if not all, independent producers.

Under the provisions of the new depletion law we feel that we may thus lose our depletion credit. A clarification through amendment on this and other points of the law is needed,

Thanking you for your interest and efforts to save the independent, I remain,

Yours very truly,
R. K. SHOOLROY,
President.

By Mr. BENTSEN:

S. 3272. A bill to exempt from Federal taxation the obligations of certain nonprofit corporations organized to finance student loans and to provide that incentive payments to lenders of those student loans shall not be regarded as yield from the student loans for the purpose of determining whether bonds issued by such nonprofit organizations are arbitrage bonds. Referred to the Committee on Finance.

LEGISLATION TO INCREASE THE AVAILABILITY OF STUDENT LOANS

Mr. BENTSEN. Mr. President, I am today introducing a bill which will enable nonprofit corporations, which were organized to finance student loans, to issue tax-exempt bonds if the proceeds of these bonds are used to provide student loans in accordance with the Higher Education Act of 1965.

There are several higher education authorities in the State of Texas that desire to issue tax-exempt bonds to finance student loans made in accordance with the Higher Education Act of 1965. The bill that I am introducing today will amend the Internal Revenue Code to enable nonprofit corporations in Texas and any other State to do so.

The South Texas Higher Education Authority, for example, was established under the Texas Nonprofit Corporation Act for the purpose of arranging for the financing of student loans. Many worthy students will be denied the opportunity to receive a college education in the absence of this much-needed source of student loans. This would have a particularly damaging effect in many economically disadvantaged areas where it is particularly important to provide young people with as great an education opportunity as possible in order to foster community development.

Mr. President, one of our highest national objectives is to provide all young people with an opportunity to attain as much education as possible. The bill I am introducing today will help promote that goal by providing student loans that

might not be otherwise available to our young people.

By Mr. CHURCH (for himself, Mr. McCLURE, Mr. HATFIELD, Mr. PACKWOOD, Mr. MANSFIELD, and Mr. METCALF):

S. 3273. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Nee-Me-Poo Trail as a National Scenic Trail. Referred to the Committee on Interior and Insular Affairs.

THE "NEE-ME-POO" TRAIL

FOLLOWING THE FOOTSTEPS OF THE NEZ PERCE

Mr. CHURCH. Mr. President, I am introducing legislation together with my distinguished colleagues, Mr. McCLURE, Mr. HATFIELD, Mr. PACKWOOD, Mr. MANSFIELD, Mr. METCALF, which would authorize the necessary study to determine the feasibility and desirability of designating the Nee-Me-Poo Trail as a National Scenic Trail.

"Nee-Me-Poo" is the aboriginal name of the Nez Perce Indians, and it means "the People." The Nee-Me-Poo Trail is the route traveled by the non-treaty Nez Perce Indians under their great leader, Chief Joseph, to avoid forcible eviction by the U.S. Army from their beloved Wallowa country in northeastern Oregon and their planned subjugation on the Lapwai Reservation in Northern Idaho. This famous retreat covered nearly 1,600 miles and spanned four States: Oregon, Idaho, Montana, and Wyoming.

The trail begins in the remote mountain valley of the Wallowas in Northern Oregon; passes through north central Idaho; enters Montana over the Lolo Pass; passes through Montana's Bitterroot, Big Hole and Horse Prairie Valleys; reenters Idaho through Bannock Pass; passes around the southern flank of the Bitterroot Mountains; turns east along the foothills of the Continental Divide; enters Wyoming and Yellowstone Park through Targhee Pass; crosses the Park and reenters Montana along the Clark's Fork of the Yellowstone; then north through central Montana to the Bears Paw Mountains where this trail of tragedy ends.

I would like to share with you some of the details of the history of the Nee-Me-Poo Trail, but first I must say a word of thanks for the outstanding work done by the Appaloosa Horse Club in keeping the history of this trail alive.

As you may know, the Nez Perce were breeders of Appaloosa horses and they developed the breed to an extraordinary extent. After their defeat and capture, these horses were scattered and the breed became almost extinct.

The Appaloosa Horse Club has revived, reestablished, and improved the scattered remnants and descendants of these Nez Perce Appaloosa horses until the modern Appaloosa breed ranks well with other breeds of light horses.

The club began an annual ride along the Nee-Me-Poo Trail starting at Wallowa Lake, Oreg., in 1965. Each year, from 100 to 125 miles of the retreat route is retraced by present-day owners of Appaloosa horses. In 1977, on the 100th anniversary of the tragic battle at the Bears Paw, the riders plan to arrive at the "Chief Joseph Battleground of the Bear's Paw."

The Appaloosa Horse Club certainly deserves a great deal of credit for their efforts to promote the history of this trail and its establishment under the National Trails System Act.

The land of the Nez Perce was a country of wide open spaces and unspoiled scenery. Much of it is a high plateau, cut into precipitous up-and-down terrain in which climate and temperature vary dramatically according to altitude.

No part of the United States has had a more colorful and adventurous history in its beginnings. Much of what happened has been obscured or even lost for decades. Some of it has been forgotten in the preoccupations of modern man. But against the scenic splendor of these towering mountains and wild highlands, epic dramas were once enacted. Above them all looms the heroic retreat of the Nez Perce Indians.

In 1863, a treaty was signed by some of the Nez Perce chiefs exchanging then-existing Nez Perce landholdings for a Government-sponsored reservation at Lapwai. Although several of the Nez Perce chiefs never signed the treaty, it was the U.S. Government's position that since a majority of the Nez Perce chiefs had signed, all were obligated by the terms of the treaty.

Chief Joseph was a leader of a non-treaty band of Nez Perce who made their home in the Wallowa country in northwestern Oregon. Joseph's attitude, so exasperating to the whites, was one of quiet strength and dignity. He felt no awe of any man, red or white, and owed none of them allegiance; he could ignore orders from Government officials, even the President, with clear conscience. To all their arguments, orders, and threats, he simply said no, he did not agree; no, he would not obey; no, he was not afraid. Time and again they insisted that he was bound by the treaty of 1863 because it had been signed by the tribal chiefs but to this he had a very simple and effective reply:

> I believe the old treaty has never been correctly reported. If we ever owned the land we own it still for we never sold it. In the treaty councils the commissioners (U.S. Indian Agents) have claimed that our country has been sold to the government. Suppose a white man should come to me and say, "Joseph, I like your horses, and I want to buy them." I say to him, "No, my horses suit me, I will not sell them." Then he goes to my neighbor, and says to him, "Joseph has some good horses. I want to buy them but he refuses to sell." My neighbor answers, "Pay me the money, and I will sell you Joseph's horses." The white man returns to me and says, "Joseph, I have bought your horses and you must let me have them." If we sold our lands to the government, this is the way they were bought.[1]

Joseph came to realize that he could no longer hope to retain all the Wallowa country. The rapid influx of white settlers and troops of the U.S. Army pointed to the necessity for some compromise. The troops continued to surround the tribe and Joseph finally convinced his people of the wisdom of moving to the reservation and avoiding bloodshed.

After 2 weeks of exhausting work, the little band of exiles gathered their herds on the west bank of the Snake River at the mouth of Imnaha and faced a swirling yellow flood swollen by spring rains and melting snows from the mountains. Across a quarter of a mile of treacherous currents, the Indians had to transport all their families and possessions with two companies of cavalry at their backs to force them along should they delay.

In this sort of work, the sturdy Appaloosa proved its worth. Through the exercise of fine horsemanship, the crossing was completed without loss of life.

After the crossing, the group decided to spend the remaining time allotted to them before they were due on the reservation enjoying their freedom. It was during this period that a small group of young men from another band decided to take revenge for previous crimes committed against the Indians. Some 14 or 15 whites were killed in the resulting raids, and the war which the Nez Perce sought to avoid was forced upon them.

The Indian camp at Lake Tolo was shocked at the many killings. Most of the Wallowa band sought refuge with Chief Looking Glass on the Middle Ford of the Clearwater. White Bird and Toohoolhoolzote, with their bands of non-treaty Nez Perce, moved across the ridge to the south, making camp on White Bird Creek. After some delay, Joseph and his brother Olliku reluctantly followed them. Although none of his band had gone on the raids, Joseph knew that his past defiance would bring blame for the trouble.[2]

The first real battle of the war occurred on June 17 at White Bird. Captain David Perry, believing the Indians would give up at the sight of troops, staged a frontal assault on the Indian camp. After a brief skirmish and deadly Indian rifle fire, Perry's command was routed. In all, 34 soldiers were killed and several wounded while the Nez Perce suffered only two wounded.[3]

Following this defeat, General Howard assembled a force of some 500 men at Lapwai all equipped for a campaign. On June 22, just 1 week after Captain Perry's departure, Howard's column followed the same route toward the Salmon River.[4]

From a camp near Lake Tolo, Howard led a reconnaissance in force to the White Bird battlefield. There he paused to bury the dead, the bodies lying as they had fallen, fully clothed and unmutilated.[5]

Meanwhile, the Nez Perce remained in their camp at Horseshoe Bend, a few miles up the Salmon from the mouth of White Bird Creek. Here they were joined by several men who had just returned from the buffalo country, among them Five Wounds and Rainbow, both famous warriors. At the news of Howard's approach, a council of chiefs met to plan a course of action.

Rainbow and Five Wounds advised that they wait on the riverbank for the Army to approach, hoping to entice Howard across the river. Once the troops were across to the left or west bank, the Indians could move downstream and

Footnotes at end of article.

cross over to the right or east bank. Then they would have a clear trail across Camas Prairie to the Clearwater River.

The plan worked well. Seeing the Indians almost within rifle range on the opposite bank, Howard rapidly moved to ford the river, a difficult task with the river at flood stage. Then he followed the band for days marching through the rain and mud, up and down the mountainous terrain. The trail led down to the river's edge at Craig's Crossing.

Howard tried to follow the Indians. However, after he had lost a large raft filled with equipment, and several cavalry horses had drowned in the treacherous waters, he abandoned the attempt and led his command back along the dreadful trail to White Bird Crossing, where he had boats to aid him.[6]

Unhampered by the soldiers, the main body of Nez Perce went on east down Cottonwood Creek and camped at its mouth on the South Fork of the Clearwater on the west bank just above the present town of Stites. Here they were joined by Looking Glass and his band and most of the Wallowa band who had remained in the area after Capt. S. C. Whipple had attacked them 5 days before. After this union, the Nez Perce were at their peak strength, with 191 men of all ages. About 50 of those took no part in any of the fighting. The women and children numbered about 450.[7]

General Howard returned to Camas Prairie after his futile march across the Salmon River and concentrated all his forces in one command. His troops now numbered about three times the strength of the hostile Nez Perce.

The next major battle took place at the Indian campsite on the Clearwater. Howard found the Nez Perce location by accident and launched a frontal assault. The charge was stymied and the two forces set up defensive positions, dug elaborate rifle pits, and sniped at each other for some 30 hours. By that time, the Nez Perce were tiring of the affair. They were not conditioned mentally for a long battle when they could fight or leave as they chose. They had been forced to fight at first to protect their camp; once the camp was safe, they decided to break off the fighting and leave. By this fight, Howard had pushed the Nez Perce away from the settlements but he had not whipped them nor did he prevent their retreat along the Lolo Trail.[8]

After 5 days of travel over the difficult Lolo Trail, they reached Lolo Hot Springs, the famous "Traveler's Rest" of Lewis and Clark. Here they halted for a time, believing the worst of their troubles to be over. Their enemy, Howard, was far to the rear and could be kept there by the rear guard forces left behind by the Indians. Ahead was familiar country, filled with the friendly people, the Crows, whom they had known for years.

In this frame of mind, they headed down Lolo Canyon from the Bitterroot Valley on July 27. Their route was blocked by Capt. Charles C. Rawn, who had taken all his forces from the work of building Fort Missoula in order to head off the Indians. Supplementing his 30 soldiers were about 200 volunteers, mostly settlers, from Missoula and the Bitterroot Valley. They had erected a line of fortifications, since known as Fort Fizzle, across the narrow way needing only to hold their position to frustrate the Indian retreat.

However, so satisfactory had been the Nez Perce conduct in this region when they came through to hunt buffalo, that the volunteers voted to accept an Indian proposal of free passage in exchange for a pledge not to harm anyone. Captain Rawn stated that he could not accept such terms and ordered the volunteers to stay. After a prolonged debate, the volunteers broke the deadlock by picking up their things and going home. Rawn then withdrew and the Nez Perce chiefs directed their line of march south up the valley and went into camp near Carlton.[9]

After a brief encampment, the Indians moved steadily up the Bitterroot Valley, traveling about 15 miles a day. They climbed the Continental Divide and dropped down to the Big Hole River, where they planned to camp a few days to rest their horses, cut tipi poles, and prepare for the long trek to the Crow country.

Up the Bitterroot Valley, well ahead of Howard, came a new foe. At the news of the approach of the Nez Perce, Col. John Gibbon, stationed at Fort Shaw on the Sun River, assembled all the men available at this post, as well as those available at Fort Benton on the upper Missouri and Fort Ellis on the Gallatin near Bozeman. His total command numbered some 198 men.[10]

Gibbon found the Nez Perce slumbering peacefully in their lodges, scattered in a long line on the south bank of the stream. The troops charged across the bordering stream and into the camp, shooting everything that moved.[11]

A few of the warriors had awakened early, perhaps sensing the approach of the enemy. This group, spared from the surprise of the first attack, formed a defense line, then advanced against the soldiers. As their movement grew in strength, they were supported by scattered fire from many of the warriors who had fled but were now returning. Soon the deadly fire of the Indian marksmen forced the soldiers out of the camp, across the creek to the north, and up the slope to the timber line, where Gibson took up a strong defensive position on a wide knoll.

Evening found Gibson in serious trouble. He had lost 29 men killed and 40 more, including himself, wounded. He was surrounded by a force of determined warriors under competent leaders and was short of food, water, and ammunition. Only the timely arrival of General Howard with his cavalry caused the Nez Perce to break off the fighting.[12]

The Nez Perce had lost only twelve fighting men in this battle. Among them were the best: Rainbow, Five Wounds, Red Moccasin Tops, and Wal-lait-its. The loss of these four and several more of nearly equal caliber was to be severely felt in the days to come. The rest of the casualties, some 89 in all, were made up of noncombatants—the old, sick, crippled, women and children.[13]

From the Big Hole battlefield, the band followed the Continental Divide to the south, keeping in the rough country to hinder their pursuers. They crossed the Divide into the valley of the upper Snake River and turned eastward, where Yellowstone National Park had been established five years earlier. The Indians pushed on to Henry's Lake and across Targhee Pass to the Madison Basin without opposition.

While the main body of the Nez Perce was struggling through the rough country east of Yellowstone Park, Chief Looking Glass rode on ahead to confer with the Crow leaders. The Crows, although old friends of the Nez Perce, were in a difficult position since they were allied with both parties in the quarrel. Instead of hoped-for aid, Looking Glass returned to the tribe with a promise of Crow neutrality.[14]

The Nez Perce realized that their only possible refuge was to the north. In their path was mountainous country new to them, for they had always kept to the north of the Yellowstone River during their trips to this area to hunt buffalo.

They pushed forward steadily, crossing the Yellowstone River at the old ford near Laurel and following down the north bank. A short distance down the river, they swung to the northwest up the bed of Canyon Creek. The Nez Perce finally slowed their pace as they crossed the Judith Basin and marched on down to the Missouri, nursing their wounded and conserving their horses.

Since crossing the Yellowstone, the Nez Perce were again in familiar country. They headed for the Cow Island crossing on the Missouri, well below Fort Benton and the head of navigation during the low water of late summer. After a brief stop, they proceeded up Cow Creek.

Colonel Nelson Miles heard of the location of the Indians and had his men ferried across the Yellowstone reaching the mouth of the Musselshell just in time to hail the steamship *Benton* to ferry his command to the north bank of the river. From there he continued his pursuit of the Nez Perce.[15]

Rising above the grassy plains north of the Missouri is a small isolated mountain mass known to all the tribes of the region as the Bear Paws. Their southern slopes drop away to the badlands, the "breaks" of the Missouri, but to the north the open range stretches to far beyond the Canadian border. Here, in former days, deer, antelope, and buffalo ranged in abundance.

Several clear mountain streams flow northward to join the waters of the Milk, the main river in this region. On one of these streams, the Nez Perce camped while securing a supply of meat and buffalo robes for the winter, welcoming the chance to relax after months of steady flight. Lulled into a sense of false security, they neglected to scout the neighboring country, and just as at the Big Hole a fresh army crept close for a surprise attack.[16]

On September 29, 1877, the fugitive band was packing and preparing to move across the border to safety. About 100 horses stood ready under their packs, when off to the south a line of horsemen

Footnotes at end of article.

appeared galloping furiously for the camp. Noncombatants took charge of the packed animals, starting at once along the trail to the north, while 50 or 60 braves guarded them. The rest of the men, led by White Bird, grabbed their rifles and crouched just below the knoll south of the tipis to await the attack.[17]

Colonel Miles, like others before him, planned on securing a spectacular victory with his first charge. With nearly 600 men, he expected to crush the Nez Perce line, his mounted forces driving in from three sides and cutting off all escape.

To oppose this awesome force, the Nez Perce could muster only about 120 men. As the charging forces neared the camp, a deadly fire from the Nez Perce Winchesters emptied many a saddle, stretching most of the officers dead or wounded on the field and effectually halting the advance. Whoever raised his voice in command became the target of a score of rifles. The rash charge on the open prairie against a hidden foe had accomplished nothing and accounted for most of the losses in the attacking force during the entire 5-day battle.[18]

After another attempt at a frontal assault, Miles decided it would be necessary to besiege the camp, and both sides dug in. The arrival of General Howard and the shelling of the village by cannon, convinced the Nez Perce of the futility of further resistance. Howard promised the Indians that they would be returned to Lapwai in the spring if they would lay down their arms at once.

To this proposal, Joseph and the few remaining Nez Perce chiefs conducted their last war council, Joseph trying to convince the rest that surrender was the only possible course. He made his final speech to his comrades, a speech which was also intended as an answer to General Howard:

Tell General Howard I know his heart. What he told me before, I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the young men who say yes and no. He who led on the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills and have no blankets, no food; no one knows where they are—perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead. Hear me, my chiefs, I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.[19]

Two hours later, Joseph rode slowly up the hill, accompanied by five of his warriors on foot. When he reached the group of waiting officers, he dismounted and, with an impulsive gesture, offered his rifle to Howard in token of surrender. Howard stepped back and indicated with his hand that Miles should receive it. Joseph was then put under guard.[20]

It had taken General Howard 4 months to halt the great trek of the Indians. The captives numbered about 418, consisting of 87 men, 184 women, and 147 children. About half the men and many of the women were wounded. Official casualty lists showed that 127 soldiers and approximately 50 civilians had lost their lives; 147 soldiers were wounded; and approximately 151 Indians were killed.[21]

Today the Nez Perce Indians live on their reservation, a little to the east of Lewiston, Idaho. Their homes are strung along the valleys of the Clearwater River and its tributaries, across the high prairies, and against the western foothills of the Bitterroot Mountains. A few other Nez Perce live on the Colville reservation near Grand Coulee Dam in northeastern Washington, where their fathers were banished after the 1877 war and where Chief Joseph died and is buried. Few white men pay them attention or know their history, but the Nez Perce have not forgotten the heroes of their past. Each year, during the summer, some 50 or 60 adults of the tribe move off with their children and with Indian friends and descendants of former allies from neighboring reservations to an isolated camping spot at Mud Springs in the forested Idaho mountains south of the town of Winchester. Here for 10 days they pitch tipis and live somewhat as their ancestors did a century ago, eating Indian foods, playing the age-old stick game, drumming and singing through the night, and dancing to the warriors' songs in fast, spirited steps around the drums.

This legislation is just one small endeavor to help insure that the drums of history continue to tell the story of courage and honor in the long tortuous retreat of the Nez Perce during those 4 months in 1877.

I ask unanimous consent that the text of the bill be printed in the RECORD, together with certain footnotes.

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

FOOTNOTES

[1] Chief Joseph, "An Indian's View of Indian Affairs," *North American Review*, Vol. CCLXIX (April, 1879), 419.
[2] Haines, Francis, *The Nez Perces*, University of Oklahoma Press (1955) 249.
[3] *Id.*, 255–260.
[4] *Id.*, 262.
[5] *Id.*
[6] *Id.*, 263.
[7] *Id.*, 264–266.
[8] Brady, *Northwestern Fights and Fighters*, 135.
[9] Haines, Francis, *supra*, 283.
[10] *Id.*, 290.
[11] *Id.*, 291.
[12] *Id.*, 292.
[13] *Id.*, 293.
[14] *Id.*, 299.
[15] *Id.*, 306–308.
[16] *Id.*, 310.
[17] Romeyn, "Capture of Chief Joseph and the Nez Perce Indians, *Montana Historical Society Contributions*, Vol II (1896), 286.
[18] Haines, Francis, *supra*, 313.
[19] *Report of the Secretary of War*, 1877, 632. Note that a later version of the story has Chief Joseph delivering the speech directly to General Howard rather than to the tribal council.
[20] Haines, Francis, *supra*, 318.
[21] *Id.*, 319.

S. 3273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end thereof the following:

"(15) Nee-Me-Poo Trail, extending approximately one thousand three hundred and fifty miles from Wallowa Lake, Oregon, to Bear Paw Mountain, Montana, by way of:

"(A) Clearwater River, the Lolo Trail and the Lolo Pass in Idaho;

"(B) The Bitterroot River, Big Hole River and Targhee Pass in Montana;

"(C) Yellowstone National Park and Clark's Fork in Wyoming; and

"(D) Canyon Creek, Musselshell River and Cow Island, Montana."

CHIEF JOSEPH'S NEZ PERCE NATIONAL TRAIL
"I WILL FIGHT NO MORE FOREVER"

Mr. PACKWOOD. Mr. President, nothing is more saddening in the history of a nation than the tragic and needless killing of its native people. I am sure that many of us recall the U.S. military's pursuit of Chief Joseph's Nez Perce Tribe in 1877, which is one of the most grievous experiences in the American Indian culture.

Chief Joseph of the Nez Perces is considered one of the greatest Indian leaders of all time. In remembering his outstanding strategy and foresight in battle, it is also known that Chief Joseph was a man of deep feelings and reflection. Born in 1840 as the hereditary Chief of the Nez Perces, Joseph went on to create one of the most remarkable stories in the history of the American Indians and their futile struggles to find solace.

Chief Joseph counseled peace, but a small band of his young warriors killed almost a dozen white men in June of 1877. He recognized that there was no chance the Nez Perce could "live peaceably on the reservation" after this, and thus began a trek which was to take him to five Western States, just short of his goal to reach Canada. As the tribe began to gather and leave, Chief Joseph remarked:

I would have given my own life if I could have undone the killing of white men by my own people. I blame my young men and I blame the white man. . . . My friends among the white men have blamed me for the war. I am not to blame. When my young men began the killing, my heart was hurt. Although I did not justify them, I remembered all the insults I had endured, and my blood was on fire. Still, I would have taken my people to buffalo country [Montana] without fighting, if possible.

I could see no other way to avoid war. We moved over to White Bird Creek, sixteen miles away, and there encamped, intending to collect our stock before leaving; but the soldiers attacked us and the first battle was fought.

Although the Nez Perce defeated the troops at White Bird Canyon, Idaho, on June 17, and held their own again at Clearwater River, July 11, Joseph recognized that they could not continue to hold off the troops. Late in July he again led his people away from the pursuing troops across the Bitterroot Mountains. Battle after battle, Chief Joseph defended himself on the Big Hole River in Montana, at Canyon Creek in Montana, and again, moving northward until Joseph reached the Bear Paw Mountains.

In this remarkable journey with only 300 warriors, Joseph opposed 5,000 soldiers and actually met in battle with 2,000, of whom he killed or wounded 266. His own losses, including many women and children, was 239. He marched 2,000 miles against the wilderness, away from the land he loved, through enemy coun-

try, carrying his noncombatants to within 30 miles of his goal of peace—the Canadian border—where he was surrounded and forced to surrender.

Chief Joseph was never permitted to live again in his beloved hills in the Wallowa Valley in Oregon. After his capture, he was taken to Fort Leavenworth, then to Indian territory, then to Washington, D.C., twice, and again to Indian territory, and finally, in 1885, to Colville Reservation in the State of Washington where he died in 1904.

Joseph was a man of clear thought and deep feeling. I've read his history and learned to understand the agonizing torment of defeat which his surrender was to bring him for the rest of his life. Surrounded and alone, with a dying tribe, Joseph said:

I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the young men who say yes and no. He who led on the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills and have no blankets, no food; no one knows where they are—perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead. Hear me, my chiefs. I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.

Moments in history like these are rare, particularly when they are remembered in the words of such an eloquent man. Later, in the days when Chief Joseph was living on the Colville Reservation in the State of Washington, he continued to reflect on the intrusion of the white man into his native land. He spoke of the men behind the words, behind the debates and the arguments, the promises, and the treaties. Joseph spoke of the good words that did not last long unless they amount to something and are honored. I hope the commemoration of Chief Joseph's struggle will be duly provided by the study authorized in this legislation to create a national trail covering the route which Chief Joseph and his tribe followed throughout the West.

Joseph's thoughts are recorded in the pages of history for those who wish to pursue them. Yet, in a brief three paragraphs, I believe Joseph's feelings about his tribe's relations with the white civilization that ultimately resulted in the waste of war are well expressed:

I have heard talk and talk, but nothing is done. Good words do not last long unless they amount to something. Words do not pay for my dead people. They do not pay for my country, now overrun by white men. . . . Good words will not give my people good health and stop them from dying. Good words will not get my people a home where they can live in peace and take care of themselves. I am tired of talk that comes to nothing. It makes my heart sick when I remember all the good words and broken promises. . . .

You might as well expect the rivers to run backward as that any man who was born a free man should be contented when penned up and denied liberty to go where he pleases.

Let me be a free man—free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to talk and think and act for myself—and I will obey every law, or submit to the penalty.

Mr. McCLURE. Mr. President, I am happy to join with my colleagues, Senators CHURCH, MANSFIELD, PACKWOOD, and METCALF in introducing legislation that would authorize for study as inclusion in our National Scenic Trails System the route that Chief Joseph and his courageous Nez Perce Indians followed in their journey for freedom across the northern tip of Idaho to the rugged Bear Paw Mountains in Montana.

The Nez Perce Tribe, who still reside beside the Clearwater River in Idaho, have named the trail the "Nee-Me-Po" which in Nez Perce language means "The People."

The trail, as much a tribute to the brilliant strategic maneuvers of Chief Joseph as to the memory of the Nez Perce people, actually winds through 1,350 miles of varied landforms through the Northwest. Beginning in the remote mountain valley of the Wallowa in Oregon, it follows the Clearwater River up and over Lolo Pass, down to the Bitterroot and Big Hole Rivers and into Targhee Pass where it explores Yellowstone National Park and proceeds up the Clarks Fork to the famed Bear Paws in northern Montana.

It is fitting that such a trail be studied for a number of reasons. The Nez Perce Indians traveled this legendary path, led by their leader, Chief Joseph, in their famous trek of 1877. Hundreds of Indians and horses left their homeland by way of this trail, followed by General Howard's army of artillery and supplies, to reach freedom by fleeing to Canada. The Indians upon reaching the buffalo country in Montana had managed to outsmart and strategically defeat the white army until the last battle of 1877—only miles short of their Canadian destination. It was then that Chief Joseph chose to stay with what was left of his people. It was only then that he spoke the words, "I will fight no more forever."

This route extending through some of the roughest country in Idaho, parallels the Lolo Trail, a dim track through a primeval forest which Lewis and Clark used to breach the Bitterroot Range on their westward journey. In fact, the mountains, rivers, forests, and meadows of this majestic trail have changed little over the years. Today, a traveler can still see the country almost as Lewis and Clark discovered it a century and a half ago. One can still gaze on scenes and landmarks almost the entire way that are important to both the Nez Perce and the traders and trappers whose culture supersedes theirs.

The Appaloosa Horse Club of America, located in Moscow, Idaho, has done more than any other organization in bringing about the reality of this trail today. The club, known for preserving the fine line of the Nez Perce horse, the Appaloosa, ride this trail in part every summer and hope to reach the historic battlefield of 1877 by the summer of 1977. Designation of this trail would be most fitting for their celebration at that time.

There are many benefits to be derived by studying the Nee-Me-Po Trail. It would allow more Americans to be aware and better understand the story behind this Indian epic, truly a rich legend in our American history.

Thus it is for the education and enjoyment of all our citizens, a tribute to those who have through the years documented and relived this past and especially to the spirit of Chief Joseph and the Nez Perce people that I sponsor this bill which will hopefully lead to the designation of the Nee-Me-Po Trail as a National Scenic Trail.

By Mr. ABOUREZK (for himself, Mr. GRAVEL, and Mr. McGOVERN):

S. 3274. A bill to establish certain rules with respect to the appearance of witnesses before grand juries in order better to protect the constitutional rights and liberties of such witnesses under the fourth, fifth, and sixth amendments to the Constitution, to provide for independent inquiries by grand juries, and for other purposes. Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, in recent years the grand jury, though provided for in the bill of rights as a protective, popular institution, has been justly and widely criticized because it no longer functions as a shield for the innocent. If anything, it now often serves to shield the government from the people and the accusatory process from constitutional rights and due process of law. The time has come for the U.S. Senate to begin the long overdue legislative inquiry into reform of this cherished but tarnished institution. The introduction today of the Grand Jury Reform Act is a critical first step.

The grand jury system has deep historical roots. In England, it served both as a "body of accusers sworn to discover and present for trial persons suspected of criminal wrongdoing" and as "a protector of citizens against arbitrary and oppressive governmental action." *Calandra v. United States*, 414 U.S. 338, 33 (1974). The framers of our Constitution included the grand jury as a sword to ferret out official corruption and as a shield to protect innocent citizens from an overzealous prosecutor. As stated in the fifth amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.

In the words of the Supreme Court:

Historically, [the grand jury] has been regarded as a primary security for the innocent against hasty, malicious, and oppressive prosecution; it serves the invaluable function in our society of standing between accuser and accused, whether the latter be an individual, minority group, or whatever, to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice and personal ill will. *Wood v. Georgia*, 370 U.S. 375, 390 (1962).

We do not intend to foster mythology about the grand jury—indeed the tendency for rhetoric about the historic purposes of the grand jury helps to block careful scrutiny of how the institution is functioning. Therefore, the checkered history of the grand jury needs to be kept in mind.

Thomas Jefferson, for one, revered the institution. This reverence came from the long heritage of grand juries in the American colonies holding governmental

officials accountable for their conduct, and repeated instances of colonial grand juries courageously resisting efforts of the Crown to transform them into instruments to repress the independence movement. Still, in the early years of the Republic, Jefferson was moved to warn that efforts were underway "inviting the grand juries to become inquisitors on the freedom of speech, or writing and of principle of their fellow-citizens."

As originally conceived, the grand jury was to be an independent body. However, over the years, this conception has become so totally eroded that the grand jury now functions as a virtual rubber stamp for prosecutorial decisions. Judge Campbell, of the Federal district court, has said:

> This great institution of the past has long ceased to be a guardian of the people. Today it is but a convenience tool, for the prosecutor will admit he can indict anybody, at any time, for almost any reason.

There have been instances in which jurors, seeking to reassert their independent role, have been sharply rebuffed. The case of Harriet Mitchell is a good illustration. Late in 1971, Ms. Mitchell was sworn in as a member of the Federal grand jury in Los Angeles. Acting in her capacity as forewoman, Ms. Mitchell asked to recall an FBI agent who had previously testified. The U.S. attorney in charge refused her request, and the grand jury was recessed that same day. Ms. Mitchell later learned that her grand jury had been dissolved by the U.S. attorney, and that he convened a second one to conduct virtually the same investigation. Unfortunately, this is not a unique aberration to the manner in which grand jury investigations are conducted.

The Grand Jury Reform Act, which I introduce today, contains a number of provisions that would help to increase grand jury independence. It requires that the grand jury be adequately told of its powers, rights, and responsibilities. It explicitly requires grand jury votes on subpenas and requests for a contempt hearing. It prohibits prosecutors from engaging in the kind of disregard for the institutional integrity of the grand jury exhibited in the Los Angeles incident.

Another critical area of grand jury independence is the problem of asking an institution dominated by Government attorneys to police the Government's actions and to investigate criminal activity by Government officials. As a recent report by an ABA section notes:

> Regarding the historic function of the grand jury as a sword to ferret out governmental corruption and misconduct—the sword can be considerably dulled when a representative of the government itself determines when and how the sword should be used.

Despite widespread impressions to the contrary, the initial conduct of the Watergate grand jury inquiry illustrates this. There is much evidence that the control of the grand jury by Nixon administration prosecutors undercut and limited the scope of inquiry. Indeed, at one point, the inquiry was officially closed, with Liddy and Hunt branded as being ultimately responsible for Watergate. Only after the growth of public opposition and the appointment of independent Special Prosecutors, was a more extensive investigation and prosecution initiated with the same grand jury.

The Grand Jury Reform Act would establish a mechanism for independent grand jury inquiry when there exists a question of possible criminal activity on the part of Government officials. The bill provides for an independent court-appointed prosecutor to assist the jury and sign any indictment in lieu of the U.S. attorney in certain investigations.

Consistent with its conceived functions, the grand jury has traditionally been accorded wide latitude in the conduct of its investigations. It is that latitude coupled with the absence of any procedural safeguards which has placed the operation of the grand jury almost totally outside of judicial or legislative supervision. The potential abuses that arise from this situation were described by Prof. Charles Ruff, presently serving as the Watergate Special Prosecutor, at the 1975 Judicial Conference of the District of Columbia Circuit:

> The federal grand jury is created at the behest of the prosecutor and spends its existence under his virtually total control ... But most of what happens inside the grand jury room is not government by statute or case law. It is the prosecutor who fills this legal vacuum, and his discretion is exercised within parameters that are only vaguely defined.
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> * * * * *
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> I suggest that virtually the only restraints imposed on the prosecutor's use of the grand jury are those which he imposes on himself as a matter of his personal and professional morality or which are imposed on him as a matter of policy by his superiors. On occasion, it is clear, such restraints are ineffective, and decisions are made and actions taken that, whatever their legality, transgress the limits of prosecutorial discretion.

The situation Professor Ruff talks about is not something that simply may happen sometime in the future. Misuse of the grand jury has happened, and continues to happen.

The most flagrant example in recent years is the extensive use of grand juries by the Internal Security Division of the Department of Justice to harass members of the antiwar movement. Commenting on this distortion of the grand jury system, our esteemed colleague in the House, ROBERT KASTENMEIER has said:

> The Nixon Presidency has brought us the political grand jury, essentially a glorified witch hunt used to intimidate political groups and communities, with few resulting indictments or convictions. Clearly the intent of this sort of grand jury was to instill the fear of the law, the Justice Department, and the White House in an activist political citizenry.

During the period of 1970 through January 1973, the Internal Security Division called in excess of 100 grand juries in 36 States and 84 cities. Aided in some measure by the immunity provisions of the Organized Crime Control Act of 1970, it subpenaed between 1,000 and 2,000 people; people not charged with involvement in substantive crimes, but who might know an isolated fact or two. From all these witnesses came 410 indictments, of which just under half have gone to trial. Prof. Leroy Clark, in his recent book. "The Grand Jury—The Use and Abuse of Political Power," found that of the 200 indictments that have come to trial, only 10 percent have resulted in convictions, with the remainder terminating by acquittal or dismissal.

It is clear from Professor Ruff's comments and the situations I have described that the absence of meaningful standards of conduct for an investigation leads to serious infringements on the constitutional rights of our citizens. In its current form, a grand jury can be convened in virtually any location; and a citizen may be called to testify before a grand jury sitting any place. There is no minimum notice of appearance requirement so that, as often happens, a witness will be given a subpena to appear 2 hours later.

Furthermore, there is no requirement that the scope of the investigation be defined, a critical gap when one considers the wide reaching questions a prosecutor may ask today. There is no requirement that the questions asked or documents subpenaed be relevant to any stated scope of investigation. Consider that under the present system, a witness may be jailed for failing to answer a question such as:

> I want you to tell the grand jury what period of time during the years 1969 and 1970 you resided at 2201 Ocean Front Walk, Venice (Los Angeles), who resided there at the time you lived there, identifying all persons you have seen in or about the premises at that address, and tell the grand jury all of the conversations that were held by you or others in your presence during the time that you were at that address. (Question asked of witness called before a federal grand jury in Tucson, Arizona, in 1970, by lawyers for the Justice Department's Internal Security Division.)

Moreover, a witness can now spend a maximum of 18 months in prison for refusing to answer such questions, and upon release that same witness may be subpenaed by a new grand jury, asked the identical questions, and once again be sentenced to prison for refusing to answer.

The bill I introduce today establishes standards for investigations. It provides for a minimum notice requirement of 7 days. It provides that when an investigation includes violations of substantive criminal statutes as well as conspiracy, the grand jury may not be convened in the district where only the conspiracy occurred. It also requires that the scope of the investigation be stated by the prosecutor, and that the witness be notified of such in his/her subpena. All questions asked or documents subpenaed must be relevant to that inquiry. And, it abolishes reiterative contempt, a position also endorsed by the ABA, and would limit imprisonment for contempt to 6 months.

My proposed Grand Jury Reform Act also addresses the right-to-counsel issue. A witness is not presently entitled to the advice of counsel inside the grand jury room—a practice the American Bar Association has recently suggested be ended. A witness before a grand jury may be confronted with evidence seized in violation of his/her constitutional

rights, and the Supreme Court has recently held that an indictment can be totally based on such illegally seized evidence. *United States* v. *Calandra*, 414 U.S. 338 (1974). This bill will remedy these situations by allowing for representation by and advice of counsel in the grand jury room as well as preventing the use of illegally seized evidence.

This sweeping reform legislation addresses other abuses like complete prosecutor control as to what shall and shall not be recorded in the grand jury room—which allows for prejudicial commentaries to the jury and badgering of witnesses. It embodies the ABA standard that no witness with the stated intention of claiming the fifth amendment right against self-incrimination should be subpenaed unless immunity is obtained for the witness. Other ABA standards, such as the responsibility of the prosecutor to present exculpatory evidence, would also become law in this legislation.

I urge my colleagues to join with me in working to make the grand jury system both reflective of its intended purpose and an institution that our citizenry can cherish once again as we move into our third century.

I ask unanimous consent, that the text of the Grand Jury Reform Act be printed in the RECORD.

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

S. 3274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Grand Jury Reform Act of 1976."

SEC. 2. Section 1826 of title 28, United States Code, is amended to read as follows:

"§ 1826. RECALCITRANT WITNESSES.

"(a)(1) Whenever a witness in any proceeding before any grand jury of the United States refuses without just cause shown to comply with an order of the court of the United States to testify or provide other information, including any book, paper, document, record, recording, or other material, the attorney for the Government may, only upon an affirmative vote of twelve or more members of the grand jury that such refusal was without just cause, submit an application to the court for an order directing the witness to show why the witness should not be held in contempt. After submission of such application and a hearing at which the witness may be represented by counsel, the court may, if the court finds that such refusal was without just cause, hold the witness in contempt and order the witness to be confined. Such confinement shall be at a suitable Federal correctional institution, if one is located within fifty miles of the court ordering confinement, unless the witness waives this right. Such confinement shall continue until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed six months.

"(2) Whenever a witness in any proceeding before or ancillary to any district court of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal may summarily order his confinement at a suitable Federal correctional institution, if one is located within fifty miles of the court ordering confinement, unless the witness waives this right. Such confinement shall continue until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of the court proceeding before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed six months.

"(3) No hearing shall be held under subsection (a)(1) unless 5 days notice is given to the witness who has refused to comply with the court order under this subsection, except that a witness may be given a shorter notice of not less than 48 hours if the court, upon a showing of special need, so orders.

"(b) No person who has been confined under this section for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may be again confined under this section or under section 401 of title 18, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction set of transactions, event, or events.

"(c) Any person confined pursuant to subsection (a) of this section shall be admitted to bail or released in accordance with the provisions of chapter 207 of title 18, United States Code, pending the determination of an appeal taken by him from the order of his confinement, unless the appeal is frivolous or taken for purposes of delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule ordered by the appellate court upon application by a party.

"(d) In any proceeding conducted under this section, counsel may be appointed in the same manner as provided in section 3006A of title 18, United States Code, for any person financially unable to obtain adequate assistance.

"(e) A refusal to answer a question or provide other information before a grand jury of the United States shall not be punishable under this section or under section 401 of title 18, United States Code, if the question asked or the request for other information is based in whole or in part upon evidence obtained by an unlawful act or in violation of the witness' Constitutional rights or of rights established or protected by any statute of the United States."

SEC. 3. (a) Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. REFUSAL OF A WITNESS TO TESTIFY IN A GRAND JURY PROCEEDING.

"No person who has been imprisoned or fined by a court of the United States under section 401 of this title for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events in a proceeding before a grand jury (including a special grand jury summoned under section 3331 of this title) impaneled before any district court of the United States may again be imprisoned or fined under section 401 of this title or under section 1826 of title 28, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events."

(b) The table of sections for chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"§ 403. REFUSAL OF A WITNESS TO TESTIFY IN A GRAND JURY PROCEEDING."

SEC. 4. (a) Chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3329. NOTICE TO GRAND JURY OF ITS RIGHTS AND DUTIES.

"Upon impanelment of each grand jury before a district court of the United States, the court shall give adequate and reasonable written notice to the grand jury of, and shall assure that the grand jury reasonably understands the nature of—

"(1) its duty to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district;

"(2) its rights, authority, and powers with respect to an independent inquiry under section 3330 of this title;

"(3) its right to call and interrogate witnesses;

"(4) its right to request the production of documents or other evidence;

"(5)(A) the subject matter of the investigation, and

"(B) the criminal statute or statutes involved, if these are known at the time the grand jury is impaneled;

"(6) the requirement of section 3330A of this title that a subpena summoning a witness to appear and testify before a grand jury or to produce books, papers, documents, or other objects before the grand jury may be issued only upon an affirmative vote of twelve or more members of the grand jury to which the subpena is returnable;

"(7) the authority of the grand jury to determine by an affirmative vote of twelve or more of its members that the attorney for the Government may submit an application to the court for an order directing a witness to show cause why he should not be held in contempt under section 1826 of title 28, United States Code;

"(8) the necessity of legally sufficient evidence to form the basis of any indictment as provided under section 3330A(1) of this title;

"(9) the duty of the grand jury by an affirmative vote of twelve or more members of the grand jury to determine, based on the evidence presented before it, whether or not there are sufficient grounds for issuing indictments and to determine the violations to be included in any such indictments; and

"(10) such other duties and rights as the court deems advisable.

"The court's failure to instruct the grand jury as directed in this section shall be just cause within the meaning of section 1826 of title 28, United States Code, for a witness' refusal to testify or provide other information before such grand jury.

"§ 3330. Independent grand jury inquiry.

"(a)(1) Any grand jury (including a special grand jury summoned under section 3331 of this title) impaneled before any district court of the United States may, upon its own initiative and after giving notice to the court, inquire into offenses against the criminal laws of the United States alleged to have been committed within that district by any officer or agent of the United States or of any State or municipal government or by any person who, at the time of the alleged commission of the offense, was an officer or agent of the United States or of any State or municipal government. Such grand jury may request the attorney for the Government to assist such grand jury in such inquiry.

"(2) The grand jury shall serve for a term of twelve months after giving notice to the court under paragraph (1) unless an order for its discharge is entered earlier by the court upon a determination of the grand jury by an affirmative vote of twelve or more members that its business has been completed. If, at the end of such term or any extension thereof, the district court determines the business of the grand jury has not been completed, the court may enter an order extending such term for an additional period of six months. No grand jury term so extended shall exceed twenty-four months from the date on

which notice to the court was given under paragraph (1).

"(3) If a district court within any judicial circuit fails to extend the term of a grand jury engaged upon an independent inquiry under this section or enters an order for the discharge of such grand jury before such grand jury determines that it has completed its business, the grand jury by an affirmative vote of twelve or more members may apply to the chief judge of the circuit for an order for the continuance of the term of the grand jury. Upon the making of such an application by the grand jury, the term thereof shall continue until the entry by the chief judge of the circuit of an appropriate order upon *such application. No grand jury term so* extended shall exceed twenty-four months.

"(b) (1) In the event that the attorney for the Government refuses to assist or hinders or impedes the grand jury in the conduct of any inquiry under subsection (a), the grand jury may, upon the affirmative vote of twelve or more of its members, request at any point in such inquiry that the court appoint a special attorney to assist the grand jury in such inquiry. Such special attorney shall serve in lieu of any attorney for the Government and shall be paid at a reasonable rate to be determined by the court. Such special attorney, with the approval of the court, may appoint and fix the compensation of such assistants, investigators, and other personnel as he deems necessary. The special attorney and his appointees shall be appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The special attorney shall be reimbursed for actual expenses incurred by him and his appointees in the performance of duties pursuant to this section.

"(2) Notwithstanding sections 516 and 519 of title 28 of the United States Code or any other provision of law, a special attorney appointed under this section shall have the exclusive authority to assist in the conduct of an independent grand jury investigation under this section, and any indictment returned by a grand jury pursuant to such inquiry shall be signed by the special attorney in lieu of any attorney for the Government.

"§ 3330A. CERTAIN RIGHTS OF GRAND JURY WITNESSES.

"(a) A subpena summoning a witness to appear and testify before a grand jury of the United States or to produce books, papers, documents, or other objects before such grand jury shall be issued only upon an affirmative vote of twelve or more members of the grand jury, and such subpena may not be returnable on less than seven days' notice, except with the consent of the witness or upon a showing to the court by the attorney for the government that good cause exists why the subpena should be returned in less than 7 days.

"(b) Any subpena summoning a witness to appear before a grand jury shall advise the witness of (1) his right to counsel as provided in subsection (e) of this section; (2) his privilege against self-incrimination; (3) whether his own conduct is under investigation by the grand jury; (4) the subject matter of the grand jury investigation; (5) the substantive criminal statute or statutes, violation of which is under consideration by the grand jury; and (6) any other rights and privileges which the court deems necessary and appropriate.

"(c) Any witness who is not advised of his rights pursuant to subsection (b) shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he testifies or any evidence he produces, nor shall any such testimony or evidence be used as evidence in any criminal proceeding against him in any court.

"(d) In any proceeding before the grand jury, if the attorney for the Government has written notice in advance of the appearance of a witness that such witness intends to exercise his privilege against self-incrimination, such witness shall not be compelled to appear before the grand jury unless a grant of immunity has been obtained.

"(e) Any witness subpenaed to appear and testify before a grand jury or to produce books, papers, documents, or other objects before such grand jury shall be entitled to assistance of counsel during any time that such witness is being questioned in the pres*ence of such grand jury; such counsel may* be retained by the witness or, may, for any person financially unable to obtain adequate assistance, be appointed in the same manner as if that person were eligible for appointed counsel under section 3006A of this title.

Notwithstanding any rule contained in the Federal Rules of Criminal Procedure, such witness' counsel is authorized to disclose matters which occur before the grand jury while such counsel is in the grand jury room.

"(f) A grand jury impaneled to conduct an inquiry into offenses against the criminal laws of the United States may be convened only in a district in which substantive criminal conduct may have occurred as elements of such offenses; except that when a grand jury is to be convened to conduct an inquiry into both violations of substantive criminal statutes and violations of statutes forbidding conspiracy to violate substantive criminal statutes, the grand jury may not be convened before a district court in a district in which the only criminal conduct alleged to have occurred is conspiracy to commit the substantive criminal act.

"(g) For the convenience of witnesses and where the interests of justice so require, a district court may, on motion of a witness, transfer any grand jury proceedings or investigation into any other district where it might properly have been convened under subsection (f). In considering an application for such transfer, the court shall take into consideration all the relevant circumstances, including the distance of the grand jury investigation from the places of residence of witnesses who have been subpenaed to testify before the grand jury, financial and other burdens placed upon the witnesses, and the existence and nature of related investigations and court proceedings, if any.

"(h) Once a grand jury has failed to return an indictment based on a transaction, set of transactions, event, or events, a grand jury inquiry into the same transactions or events shall not be initiated unless the court finds, upon a proper showing by the attorney for the Government, that the Government has discovered additional evidence relevant to such inquiry.

"(i) (1) A complete and accurate stenographic record of all grand jury proceedings shall be kept, except that the grand jury's secret deliberations shall not be recorded. Such record shall include the court's notice to the grand jury of its rights and duties including but not limited to those set forth in section 3329 of this title; all introductory comments, directives, and other utterances made by attorneys for the Government to the grand jury, witnesses, and counsel for witnesses; all testimony; and all interchanges between the grand jury and attorneys and those between attorneys for the Government and counsel for witnesses. Consultations between witnesses and their counsel shall not be recorded.

"(2) Any witness who testifies before a grand jury, or his attorney with such witness' written approval, shall, upon request, be entitled to examine and copy a transcript of the record for the period of such witness' own appearance before the grand jury, and if a witness is proceeding in forma pauperis, he shall be furnished, upon request, a copy of such transcript. Such transcript shall be available for inspection and copying not later than forty-eight hours after the conclusion of such witness' testimony, unless, for cause shown, more time is required to prepare such transcript. After examination of such transcript, a witness may request permission to appear before the grand jury again to explain his testimony. Additional testimony given under this subsection shall become part of the official transcript and shall be shown to the members of the grand jury.

"(j) Any witness summoned to testify be*fore a grand jury or the attorney for such* witness with the witness' written approval shall be entitled, prior to testifying, to examine and copy any statement in the possession of the United States which such witness has made and which relates to the subject matter under inquiry by the grand jury. The term 'statement' as used in this subsection shall be defined as in section 3500(e) of this title.

"(k) No person subpenaed to testify or to produce books papers, documents, or other objects in any proceeding before any grand jury of the United States shall be required to testify or to produce such objects, or be confined pursuant to section 1820 of title 28, United States Code, for his failure to so testify or produce such objects, if, upon an evidentiary hearing before the court which issued such subpena or a court having jurisdiction under subsection (1) of this section, the court finds that—

"(1) a primary purpose or effect of requiring such person to so testify or to produce such objects to the grand jury is or will be to secure for trial testimony or to secure other information regarding the activities of any person who is already under indictment by the United States, a State, or any subdivision thereof for such activities; or of any person who is under formal accusation for such activities by any State or any subdivision thereof, where the accusation is by some form other than indictment; unless after a witness refuses to so testify or to produce such objects before the grand jury on the ground that the purpose or effect of requiring his testimony or the production of such objects is in violation of this clause, the Government establishes by a preponderance of the evidence that its inquiry is independent of such preexisting indictment or accusation,

"(2) compliance with the subpena would be unreasonable or oppressive because (i) such compliance would involve unnecessary appearances by the witness; (ii) the only testimony that can reasonably be expected from the witness is cumulative, unnecessary, or privileged; or (iii) other like circumstances,

"(3) a primary purpose of the issuance of the subpena is to harass the witness,

"(4) the witness has already been confined, imprisoned, or fined under section 1826 of title 28, United States Code, or section 401 of this title for his refusal to testify before any grand jury investigating the same transaction, set of transactions, event, or events, or

"(5) the witness has not been advised of his rights as specified in subsection (b).

"(l) The district court out of which a subpena to appear before a grand jury has been issued, the court in which the subpena was served, and the district court in the district in which the witness who was served such subpena resides shall have concurrent jurisdiction over any motion made by such witness to quash the subpena or for other relief under this motion. A motion under this section may be made at any time prior to, during, or when appropriate, subsequent to the appearance of any witness before the grand jury. Any motion made during or

subsequent to the appearance of the witness before the grand jury may be made only in the district court in which the grand jury is impaneled. If the motion is made before or during the appearance of the witness before the grand jury, the appearance before the grand jury shall be stayed by the making of the motion until the court before which the motion is pending rules on the motion.

"(m) The attorney for the Government shall be limited to asking questions or requesting the production of books, papers, documents, or other objects relevant to the subject matter under investigation.

"(n) The attorney for the Government *shall not be permitted to* submit before the grand jury any evidence seized or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.

"(o) A grand jury may indict a person for an offense when (1) the evidence before such grand jury is legally sufficient to establish that such offense was committed, and (2) competent and admissible evidence before such grand jury provides reasonable cause to believe that such person committed such offense. An indictment may be based on summarized or hearsay evidence alone only upon a showing of good cause to the court. An attorney for the Government shall present to the grand jury all evidence in such attorney's possession which he knows will tend to negate the guilt of the person or persons under investigation.

"(p) The district court before which a grand jury is impaneled shall dismiss any indictment of the grand jury if such district court finds that—

"(1) the evidence before the grand jury was legally insufficient to establish that the offense for which the indictment was rendered was committed;

"(2) there was not competent and admissible evidence, or summarized or hearsay allowed by the court upon a showing of good cause, before the grand jury to provide reasonable cause to believe that the person indicted committed such offense;

"(3) the attorney for the Government has not presented to the grand jury all evidence in his or her possession which the attorney knows will tend to negate the guilt of the person indicted; or

"(4) the attorney for the Government has submitted to the grand jury evidence seized or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.

"(q) Any person may approach the attorney for the Government and request to testify in an inquiry before a grand jury or to appear before a grand jury and request that the grand jury proceed in accordance with its powers under section 3330 of this title. An attorney for the Government shall keep a public record of all denials of such requests to that attorney for the Government, including the results for not allowing such person to testify or appear. If the person making such request is dissatisfied with the Government's decision, such person may petition the court for a hearing on the denial by the attorney for the Government. If the court grants the hearing, then the court may permit the person to testify or appear before the grand jury, if the court finds that such testimony or appearance would serve the interests of justice."

(b) The table of sections for chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"3329. Notice to grand jury of its rights and duties.

"3330. Independent grand jury inquiry.

"3330A. Certain rights of grand jury witnesses."

Sec. 5. (a) Part V of title 18, United States Code, is amended by adding at the end of such part the following new section:

"§ 6006. Reports concerning grand jury investigations.

"In January of each year, the Attorney General or an Assistant Attorney General specially designated by the Attorney General shall report to the Congress and to the Administrative Office of the United States Courts—

"(1) the number of investigations undertaken during the preceding year in which a grand jury or a special grand jury was utilized together with a description of the nature of each investigation undertaken;

"(2) the number of requests by United States grand juries to the Attorney General for approval and to witnesses for written consent to make application to the court for an order compelling testimony under section 2514 of this title, and the number of such requests approved by the Attorney General;

"(3) the number of applications to district courts for orders granting immunity under this title;

"(4) the number of applications to district courts for orders granting immunity under this title that were approved and the nature of the investigations for which the orders were sought;

"(5) the number of instances in which witnesses in such investigations were held in contempt and confined, and the dates and lengths of such confinement;

"(6) the number of arrests, indictments, no-bills, trials, and convictions resulting from testimony obtained under orders granting immunity; the offenses for which the convictions were obtained; and a general assessment of the importance of the immunity;

"(7) a description of data banks and other procedures by which grand jury information is processed, stored, and used by the Department of Justice; and

"(8) other appropriate indicia and information concerning grand jury activity during such year. The matter contained in the report required to be made by this section shall be set forth according to judicial district.".

(b) The table of sections for part V of title 18, United States Code, is amended by adding at the end thereof the following new item:

"6006. Reports concerning grand jury investigations."

By Mr. ROTH:

S. 3276. A bill to amend title 18, United States Code, so as to provide for mandatory minimum sentences with respect to certain offenses against victims 60 years of age or older. Referred to the Committee on the District of Columbia.

S. 3277. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1965 to add specific requirements that the comprehensive State plan under that act include provisions for the prevention of crimes against the elderly, and for other purposes. Referred to the Committee on the Judiciary.

S. 3278. A bill to amend the act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, relating to offenses against individuals 60 years of age or older. Referred to the Committee on the District of Columbia.

Mr. ROTH. Mr. President, since serving in the Congress, one of my special concerns has been the plight of the older American. No group has been more responsible for the success and prosperity of this Nation than the older generation. I am confident that if this Nation had retained the traditions and goals of the older generation we would be far better off today. The older generation did not ask for something for nothing. What they sought was opportunity, the opportunity to work and to rise as high as their ability would take them; the opportunity to live and work in peace and security.

Because of this generation's faith and willingness to work hard and to make personal sacrifices, this country grew and prospered to become the greatest democracy this Earth has ever witnessed. Even today, in this Bicentennial Year, the Nation with all its problems and difficulties remains the hope and dream of millions everywhere. As ED BROOKE, the Senator from Massachusetts, so eloquently stated in Delaware recently:

Thousands upon thousands are waiting in line to enter this country; few, very few indeed seek to leave it.

But today in America the older generation which has contributed so much to this Nation is threatened by the ravages of crime. The elderly are vulnerable and are all too frequently "easy marks"—subject to purse snatchings, personal assaults, rapes, and muggings in the streets, in their apartment buildings, near their homes, and in their own neighborhoods. Unfortunately, all too often criminals recognize and prey upon this special vulnerability.

Consequently, there is a distinctiveness and special urgency about crimes against the elderly. Considered broadly in terms of the physical, economic, and social and psychological impact, these crimes warrant special consideration.

Experts in the fields of crime and the elderly have made a strong case for singling out this type of crime. They point out:

First. Older people are not as strong physically. Older people are not apt to be in physical condition to resist attackers and defend themselves without undue risks to their own well-being.

Second. Potential criminals recognize the frailties of age and with it the increased vulnerability of the aged.

Third. Older people are more likely to live alone. Isolation makes them more vulnerable.

Fourth. There is a greater likelihood that older people will live in high crime neighborhoods. Older people are likely to be repeatedly victimized.

Fifth. The dates when pension checks, social security payments, and other income is received are well known to the potential criminal. Thus, the times when cash or sums of money are in the possession of the elderly is generally known, causing the elderly to be particularly vulnerable at that time.

For these reasons and because I believe fear of crime is one of the most serious problems confronting the elderly it is my firm conviction that any criminal who commits a personal crime against a senior citizen should be subject to mandatory minimum sentences. This could be a significant step in providing the elderly with the security and safety which they deserve.

I am deeply troubled over these vulnerabilities of the elderly citizens of this country to violent crime. And my con-

cern rarely abates when, day in and day out, I observe the perpetrators of these heinous crimes receiving extremely light sentences of incarceration, or, in all too many instances, being granted immediate probation. I believe, therefore, that it is time Congress take the leadership by setting an example for each State legislature and by doing everything within its constitutional power to combat the victimization of our elderly citizens.

The three bills I am introducing today, Mr. President, embody my conviction that the creation of mandatory minimum sentences will be an effective tool in this fight against the tragic effect of crime upon elderly individuals. First, S. 3277 will amend the Omnibus Crime Control and Safe Streets Act of 1968 to encourage greater State involvement in the plight of the elderly. It has been the declared policy of Congress to foster, by Federal monetary assistance, more effective State law enforcement techniques and programs. The Law Enforcement Assistance Administration was created by this act to distribute grants to States filing with the Administration comprehensive plans for the improvement of law enforcement and criminal justice. If enacted, this measure will expressly authorize LEAA to grant funds to those States which develop programs to reduce the commission of crime against the elderly by exploring the efficacy of mandatory sentences and of improved rehabilitation programs for offenders who victimize the elderly. This bill will also mandate that each State plan on file with LEAA be approved as comprehensive only if such plan includes a general program for "the prevention of crimes against the elderly," and contains a provision "for the development and operation of programs designed to reduce crime against the elderly and to specifically strengthen offender rehabilitation programs with respect to offenders committing crimes against the elderly."

I am also introducing today, Mr. President, two bills designed to create effective mandatory minimum sentences for several types of violent crimes committed within the special maritime and territorial jurisdiction of the United States and within the District of Columbia. These measures though limited to Federal jurisdictions should serve as models to all of the States as they consider legislation to protect our elderly citizens.

Application of the new sentencing provisions in both of these measures will be triggered by the determination that the victim of the crime at the time of its commission, is a person 60 years of age or older.

S. 3276 will amend several sections of title 18 of the United States Code by establishing mandatory minimum sentences which range from 3 months for assault by striking or beating to 2 years for aggravated assault to 15 years for second degree murder. Similarly, S. 3278 will amend comparable provisions of title 22 of the District of Columbia Code. The complete list of target crimes is as follows: Various degrees of simple and aggravated assault, burglary, kidnapping, maiming, manslaughter, murder, rape, and robbery.

Allow me, Mr. President, to reiterate something I mentioned a moment ago. It is my hope and intention that sentencing provisions be effective. In furtherance of that objective, S. 3276 and S. 3278 clearly prohibit the sentencing judge from suspending sentence or granting probation when a person 60 years of age or older has been victimized by one of the violent crimes I have mentioned. Furthermore, the application to the defendant of numerous statutory programs, otherwise potentially capable of substantially reducing the actual time of incarceration, such as good-time allowances, parole, and the operation of the Federal Youth Corrections Act, has been expressly disallowed by these bills with respect to such mandatory minimum terms.

Punishment must be swift and sure for the dangerous felon. It must be swift and sure for the potential offender who has singled out an elderly person as his next victim.

Imposing mandatory minimum sentences for violent crime will aid in the reduction of crime. I am convinced that jails and prisons serve as deterrents to crime. When judges are required to carry out sentences and the offenders know that they will be carried out, you can be sure that a would-be offender is more likely to become a would-not offender. You can be sure that second and third time offenders will be deterred if they know that punishment is quick and certain.

For too long, law has centered its attention on the rights of the criminal defendant—not on the victim or would-be victim of crime. It is time for law to concern itself more with the rights of the people it exists to protect.

We need to devote more attention to the victims and potential victims of crime. The primary obligation of society is to assure the safety of the law-abiding citizen—to remove the criminal from the streets, and, if possible, to rehabilitate him. Rehabilitation of the offender is, of course, a worthy goal and should be the major objective of the correctional system. It is, however, tragic but true that all criminals simply cannot be rehabilitated. In these cases, society must be protected. Confinement in a prison should not be viewed as a last resort, but as a necessary tool for the protection of the law-abiding segment of our society which is, far and away, the overwhelming majority of our citizenry.

The victims and the potential victims of crime have basic needs and rights and they too are an integral part of the solution to crime. Certainly, the victim deserves the same rights, consideration, and protection as the criminal defendant is guaranteed under the law. I cannot emphasize too strongly that it is the primary obligation of society to assure the safety of the law-abiding citizen.

Mr. President, I ask unanimous consent that the text of each of my bills be printed in the RECORD.

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

S. 3276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 13 of title 18, United States Code, is amended (1) by inserting "(a)" immediately before "Whoever", and (2) by adding at the end thereof the following new subsection:

"(b) Whoever is found guilty of a like offense, under the provisions of subsection (a) of this section, constituting, according to the laws in force at the time—

"(1) the crime of burglary, where at night a person, with intent to engage in conduct constituting a crime, enters without privilege, or remains surreptitiously within, a dwelling that is the property of another; or

"(2) the crime of aggravated assault, where a person, by physical force, intentionally causes serious bodily injury to another person;

shall, if the victim of such offense is sixty years of age or older at the time thereof, be sentenced to a term of imprisonment which may not be less than two years and which may be up to the maximum provided by law for such like offense.".

(b)(1) Section 113(a) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than four years and which may be up to twenty years".

(2) Section 113(b) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to ten years, and, in addition thereto, may be fined not more than $3,000".

(3) Section 113 (c) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to five years, and, in addition thereto, may be fined not more than $1,000".

(4) Section 113(d) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than three months and which may be up to six months, and, in addition thereto, may be fined not more than $500".

(c) Section 114 of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to seven years, and, in addition thereto, may be fined not more than $1,000".

(d) The third paragraph of section 1111 (b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life, except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be

sentenced to a term of imprisonment which may not be less than fifteen years and which may be up to life imprisonment".

(e) The second paragraph of section 1112 (b) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than four years and which may be up to 10 years".

(f) The third paragraph of section 1112 (b) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to three years".

(g) Section 1113 of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of the offense is an individual sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to three years".

(h) Section 2031 of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to life imprisonment".

(i) Section 2111 of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of any such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than three years and which may be up to fifteen years".

(j) Section 1201(a) of title 18, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of any such offense (other than a victim described in clause (4) of this subsection) was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to life imprisonment".

SEC. 2. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3579. MANDATORY MINIMUM SENTENCES

"The imposition or execution of any mandatory minimum sentence pursuant to the provisions of section 13, subsection (a), (b), (c), or (d) of sections 113, 114, 1111(b) (including a sentence of life imprisonment for murder in the first degree), 1112(b), 1113, 1201(a), 2031, and 2111 of this title, involving an offense the victim with respect to which was sixty years of age or older at the time of such offense, shall not be suspended, probation shall not be granted, and chapters 309, 311, and 402 of this title shall not be applicable.".

(b) The analysis of chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Mandatory minimum sentences.".

SEC. 3. The amendments made by this Act shall be applicable with respect to offenses committed on and after the date of the enactment of this Act.

S. 3277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Prevention of Crime Against the Elderly".

SEC. 2. (a) The fourth sentence in section 303(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before the period, a comma and the following: "and the prevention of crimes against the elderly".

(b) Section 301(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) The development and operation of programs designed to reduce crime committed against the elderly including effective sentencing alternatives and the use of mandatory sentences, and improved offender rehabilitation programs, for offenders committing crimes against the elderly.".

(c) Section 303(a) of such Act is amended by redesignating paragraphs (14) and (15) of such section, and all references thereto, as paragraphs (15) and (16), and by inserting immediately after paragraph (13) the following new paragraph:

"(14) provide for the development and operation of programs designed to reduce crime against the elderly and to specifically strengthen offender rehabilitation programs with respect to offenders committing crimes against the elderly;".

S. 3278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 804 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, as (D.C. Code, sec. 22–502), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offsense was sixty years of ago or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year but which may be up to ten years imprisonment".

(b) Section 805 of such Act, as amended (D.C. Code, sec. 22–503), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to five years".

(c) Section 806 of such Act, as amended (D.C. Code, sec. 22–504), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than six months and which may be up to twelve months".

(d) Section 807 of such Act, as amended (D.C. Code, sec. 22–506), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to ten years imprisonment".

(e) Section 812 of such Act, as amended (D.C. Code, sec. 22–2101), is amended by inserting immediately before the period at the end of the first sentence thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to life imprisonment".

(f) Section 802 of such Act, as amended (D.C. Code, sec. 22–2405), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than two years and which may be up to fifteen years imprisonment".

(g) Section 810 of such Act, as amended (D.C. Code, sec. 22–2901), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of such offense was sixty years of age or older at the time thereof, the defendant so convicted of such offense shall suffer imprisonment for not less than three years nor more than fifteen years".

(h) Section 811 of such Act, as amended (D.C. Code, sec. 22–2902), is amended by inserting immediately before the period at the end thereof a comma and the following: "except that, if the victim of any such offense is sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than one year and which may be up to three years".

(i) Section 808 of such Act, as amended (D.C. Code, sec. 22–2801), is amended by inserting a comma immediately before the period at the end thereof and the following: "except that, if the victim of any such offense is sixty years of age or older at the time thereof, the defendant so convicted of such offense shall be sentenced to a term of imprisonment which may not be less than five years and which may be up to life imprisonment".

SEC. 2. Notwithstanding any other provision of law, the imposition or execution of any mandatory minimum sentence pursuant to the provisions of sections 801, 802, 803, 804, 805, 806, 807, 808, 810, 811, 812, and 823 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, as amended (D.C. Code, secs. 22–2404, 22–2405, 22–501, 22–502, 22–503, 22–504, 22–506, 22–2801, 22–2901, 22–2902, 22–2101, and 22–1801), involving an offense the victim with respect to which was sixty years of age or older at the time of such offense, shall not be suspended, probation or parole shall not be granted, and the provisions of the Act of July 15, 1932, as amended (D.C. Code, secs. 24–203 through 24–209), and section 937 of the Act of March 3, 1901, as amended (D.C. Code, sec. 24–405), shall not apply.

SEC. 3. The amendments made by this Act shall be applicable with respect to offenses committed on and after the date of the enactment of this Act.

By Mr. MATHIAS (for himself, Mr. BROOKE, and Mr. JAVITS):

S. 3280. A bill to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare service provided for under Federal law. Referred to the Committee on Finance and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

Mr. MATHIAS. Mr. President, today I am introducing for myself and the Senators from Massachusetts and New York,

Mr. BROOKE and Mr. JAVITS, a bill which lays the groundwork for serious congressional and Presidential consideration of specific legislative steps we might take next year to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare services.

I am pleased to note, Mr. President, that the Senate has passed legislation to reform the food stamp program. The distinguished chairman of the Committee on Agriculture and Forestry and the floor manager of the food stamp bill, Mr. Talmadge, has noted that the reform of the food stamp program—important as this task may be—represents only one in a number of reforms which we must undertake, if we wish to develop a coherent, effective, and sensible system of public income maintenance programs. During the opening round of debate on the food stamp bill, the chairman stated, "the food stamp program does not operate in a vacuum." To stress his point, he quoted a statement made by Dr. Richard P. Nathan, of the Brookings Institution who said last year in testimony before the Agriculture Committee:

> The main lesson learned by analysts of welfare policies in the five years since President Nixon's family assistance plan was proposed in August 1969, is that all programs of Federal Government that transfer cash and in-kind assistance to individuals must be looked at together.

Mr. President, this is precisely the purpose which this bill accomplishes. This bill would create a national commission of 18 distinguished members, as follows: the Secretaries of HEW and Labor; four members appointed by the President from public or private life; three members appointed by the Senate majority leader, one from the Senate, and one from private life; three members appointed by the minority leader of the Senate, one from the Senate and one from private life; three members appointed by the House majority leader, one from the House and one from private life; and three members appointed by the minority leader of the House, one from the House and one from private life.

The Commission would have 1 year from the date of enactment to develop and recommend specific and detailed legislation regarding the reform of all Federal income maintenance programs for the relevant committees of the Congress and, of course, the Commission would have authority to hold hearings, conduct the necessary research and obtain all of the information and materials it requires through a full-time staff.

This bill is offered in the present form rather than as a specific immediate proposal to reform the current public income maintenance system in recognition of certain facts; facts which have convinced me that there will be no reform of the welfare system this year, though most of us agree that reforms are necessary; facts which suggest that there is, at this time, no general consensus in the Congress or public as to what form and substance the reform of income maintenance programs should take; facts which suggest that the issues involved are of such magnitude and complexity and fraught with emotion that, as an important initial step, we should remove partisanship as much as possible from the development of a well researched and documented welfare reform proposal by providing for a high-level issue oriented study and investigation of present income maintenance programs. I would point out that a number of State and local governmental organizations and public interest groups have been studying a proposal such as this bill embodies several months. I am pleased to note also that the approach outlined in this bill has received the endorsement of the U.S. Conference of Mayors Task Force on Income Security, the National Conference of State Legislatures, the National Association of Counties, and has received favorable consideration by the National Urban Coalition.

Mr. President, this legislation will not guarantee that the Commission will recommend a proposal on which the Congress, the President, or the general public will agree. But that outcome does not alarm me because the Congress will still have an opportunity to work its will on whatever proposal comes before it. The most important feature, however, is that, by adopting this bill, the Senate will be indicating its own dissatisfaction with our present system and that it does wish to begin and begin now, the process of designing a better income maintenance system.

It must be a system which assists citizens to achieve self-support and independence; it must be a system which provides expenditures in the amounts adequate to meet the needs of families and individuals; it must be a system which eliminates duplication and overlapping of services, activities, and functions; it must be a system which consolidates services, activities, and functions of a similar nature; it must be a system which reduces fraud and errors in program administration; it must be a system which assures equitable treatment of citizens in similar circumstances and needs; and finally, it must be a system which contains methods of equitable financing and some measure of fiscal relief for our financially pressed States, cities and counties. The need for reform is clear and pressing.

According to a January 6, 1976 report prepared for me by the Congressional Research Service, Federal welfare expenditures for fiscal year 1975 totaled $28.7 billion. This sum includes those major programs that transfer income—cash and in-kind benefits—to individuals with low pretransfer income such as AFDC, medicaid, SSI, food stamps, social services, general assistance, emergency assistance, veteran's pensions, and housing payments.

I also inquired about the efficiency of Federal programs in reducing poverty and was advised that 46.9 percent of the families and 62.7 percent of the unrelated indivduals who received public assistance cash payments in 1974 had money income below the poverty line. This income count, however, excluded the bonus value of food stamps, which totaled almost $3 billion in fiscal year 1974, and currently exceeds $6.5 billion annually; and it excludes medicaid payments which totaled $11 billion in fiscal year 1974 and now exceeds $14 billion yearly. Also, the definition of "family" was not restricted to families with children, but covers "a group of two or more persons related by blood, marriage, or adoption and residing together."

Nonetheless, CRS went on to indicate that data collected by the University of Michigan Survey Research Center showed that social security and unemployment insurance checks in 1971 reduced by 52 percent the number of poor "families" headed by the aged, including elderly individuals. But, according to CRS, such payments had relatively minor impact on the poverty of families with children, reducing by 11 percent the number of poor families without fathers and by 6 percent the number of poor families with two parents.

Cash welfare, plus the bonus value of food stamps, the Michigan study found, further reduced the number of poor families as follows: those headed by the aged, 11 percent; mother-headed families with children, 32 percent; and male-headed families with children, 16 percent. All in all, social insurance, plus cash welfare and food stamps, failed in 1971 to remove from poverty 43 percent of aged families, 61 percent of mother-headed families with children, and 79 percent of male-headed families who originally were poor.

I recognize that food stamps were a relatively small program in 1971, unavailable in many counties; and that SSI had not yet come into being. Yet the Michigan survey indicated that coverage of the poor population by the Nation's "system" of transfer payments is best for the poor aged, the poor disabled, and for poor mother-headed families with children. Of these groups, all received some transfers except for 3 percent, 11 percent, and 17 percent respectively.

Significantly, however, 51 percent of poor male-headed families with children, and 57 percent of poor families with a nonaged, nondisabled head without children received no transfer payments. One additional group of statistics from the Census Bureau points to the problem; namely that of the Nation's 5.1 million which were classified as poor in 1974, 980,000 had a breadwinner who worked full time year round. The heads of another 200,000 families worked all year at part-time jobs, and 1.5 million of the poor families had a breadwinner who worked only part of the year. In all, 53 percent of the persons heading poor families did some work in 1974.

The issues, at this point, appear to be the same which we confronted unsuccessfully more than 4 years ago; is the present system very effective when it comes to reducing income poverty, and does the present system despite food stamps, discourage men from working by excluding families headed by male full-time workers? Does the system still contain other wrong way incentives?

In addition to those arguments we heard—and used—from 1969 to 1972 describing the welfare system as inefficient, we are now confronted with the issue of

multiple program participation and the effect of this phenomenon on recipients. The several welfare programs restricted to certain categories, we are told, omit many of the poor and create financial incentives for some to form into units eligible for help. For example, in States permitting AFDC only for fatherless families, and for families with incapacitated fathers, the program provides a financial incentive for fathers to desert their children, or to pretend to do so, or to fail to marry the mother in the first place. Categorical programs, therefore, result in inequitable treatment. Additionally, State-local administration of federally subsidized welfare is supposed to be complex, costly, error-prone, and impedes uniform treatment of the poor.

Perhaps, the most piercing argument against the present system is that our categorical programs which result in multiple program participation generally increases work disincentives by increasing the rate at which benefits are reduced for offsetting income. Additionally, multiple program participation can lessen the need for work, and it can make work less competitive with welfare. For instance, in July 1975, the maximum potential combined benefits—cash plus food stamps—to AFDC families of 4 persons in 37 States exceed the estimated net gain from a full-time job at the Federal minimum wage after social security taxes, bus fare and modest other expenses.

In many respects, some of the arguments used against the system in 1969 to 1972 still apply today; namely, that it contains disincentives to work; that it encourages family dissolution; and that it is inequitable both with respect to regions of the country and individuals.

But this does not lessen the dilemma which potential reformers face. We recognize that unless AFDC is opened up to poor intact families with a full-time working father, any changes that liberalize benefits automatically will increase the financial penalty against excluded families. This in turn will increase the incentive for family splitting. Moreover, if separate, uncoordinated programs continue to proliferate in response to specific needs, work disincentives will climb. At the same time, ultimate rationalization of the system may be impeded by the rising level of combined benefits that would have to be surrendered to achieve a universal system. We must acknowledge that the benefits of the food stamp program have narrowed regional income disparities of the poor and aided groups excluded for cash welfare; but, this fact alone increases the probable cost of replacing major welfare programs with a national cash program.

Accepting for a moment the goals established by the Institute for Research on Poverty of an income tested welfare program as being sound—a system which is adequate, efficient administratively, and target population-wise, equitable with incentives for work and family stability, and one which promotes independence, the question is how do we get there from here?

Do we conclude, as we did 6 years ago, that the system is in abysmal chaos beyond fine tuning and must be restructured? Or should we pursue incremental reform? Facing us is a $28 billion system which pleases few Americans, regardless of political ideology or class status. Yet the question recurs; how do we begin to address this issue, particularly this year?

This legislation we introduce today offers the way. Mr. President, I ask unanimous consent that letters from the Honorable Abraham Beame, chairman of the Task Force on Income Security for the United States Conference of Mayors and Mr. Vance Webb, president of the National Association of Counties endorsing this legislation and the text of the bill be printed in the RECORD.

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

S. 3280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of Congress to promote economy, efficiency, and improved service in the financing, administration, and delivery of social welfare services, including, but not limited to, those programs which provide a cash benefit or the equivalent of cash to individuals and families in need by—

(1) assisting needy and low income people to achieve self-support and self-sufficiency;

(2) providing funds in the amounts adequate to meet the needs of needy and low income families and individuals;

(3) eliminating duplication and overlapping of services, activities, and functions in the Federal income maintenance programs;

(4) consolidating services, activities, and functions of a similar nature in such programs;

(5) reducing fraud and errors in administration of such programs;

(6) assuring equitable treatment of people in similar circumstances and needs under such programs, taking into consideration geographic locations and other factors; and

(7) developing methods of equitable financing for such programs.

SEC. 2. (a) There is hereby established a *Commission to be known as the National* Commission on the Reform of Income Maintenance Programs (hereinafter referred to as the "Commission") for the purpose of developing specific legislative proposals designed to carry out the policies set forth in the first section.

(b) (1) The Commission shall consist of eighteen members as follows:

(A) The Secretary of Health, Education, and Welfare.

(B) The Secretary of Labor.

(C) Four members appointed by the President from public or private life.

(D) Three members appointed by the majority leader of the Senate, one from the Senate and one from private life.

(E) Three members appointed by the minority leader of the Senate, one from the Senate and one from private life.

(F) Three members appointed by the majority leader of the House of Representatives, one from the House of Representatives and one from private life.

(G) Three members appointed by the minority leader of the House of Representatives, one from the House of Representatives and one from private life.

(2) If any member has been appointed by virtue of the office he holds, his term shall expire when he no longer holds such office.

(d) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) The Commission shall elect a chairman and vice-chairman from among its members except that no member of the President's cabinet or Congress may serve in either position.

(f) Ten members of the Commission shall constitute a quorum.

SEC. 3. (a) Members of the Commission who are officers or fulltime empoyees of the United States or who are Members of Congress shall receive no compensation for their services as members of the Commission.

(b) All other members, unless precluded by the nature of any office they hold, shall be compensated at rates determined by the Commission, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) All members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 4. The Commission shall appoint an Executive Director and not to exceed three assistant directors. The Executive Director shall be compensated at a rate not to exceed that of level V of the Executive Schedule and the Assistant Directors at a rate not in excess of the maximum rate authorized by the General Schedule (subchapter III of chapter 53 of title 5, United States Code). The Commission shall have the power to appoint other personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual shall receive compensation at a rate in excess of the maximum rate authorized by the General Schedule. The Commission may request the detail of Federal employees. with or without reimbursement. The Commission may also use consultant or contract services.

SEC. 5. The Commission shall develop and draft proposed legislation to reform existing social welfare laws and programs in accordance with the policies set forth in the first section. It shall also draft a proposed plan for implementation of such legislation. The Commission shall also prepare cost estimates for carrying out such proposed legislation.

SEC. 6. In carrying out the purpose of this Act and in developing the necessary legislation, the Commission shall:

(1) hold public hearings, discussions, and meetings and receive such testimony as it deems necessary;

(2) study and analyze past and present social welfare policies and programs on the local, State, and federal levels;

(3) consider the relationships among cash and in-kind income and job security programs, job creations, social services, and manpower programs;

(4) consult with persons knowledgable in the development and administration of social welfare programs, including recipients of benefits; and

(5) regularly inform and consult with the relevant legislative committees of Congress and the relevant agencies of the Executive Branch.

SEC. 7. The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed by the Commission in carrying out the purposes of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates and statistics directly to

the Commission, upon request made by the chairman or vice chairman of the Commission.

SEC. 8. No later than one year after the date of enactment of this Act, the Commission shall submit its recommendation to the appropriate committees of the Congress and to the President.

SEC. 9. Any information obtained by the Commission from individuals, groups, organizations, Federal, State, and local agencies and officials shall be subject to all existing and future laws concerning privacy and freedom of information.

SEC. 10. (a) The Commission shall commence its activities as soon as ten members have been appointed.

(b) If, after ten members have been appointed, no money has been appropriated to carry out the purposes of this section, the Commission may enter into an agreement with the Secretary of Health, Education, and Welfare to advance such financial resources as may be necessary to begin the work of the Commission. The Department of Health, Education and Welfare shall be reimbursed for such advances out of funds appropriated to carry out this Act.

SEC. 11. The Commission shall locate its offices in the District of Columbia and may obtain and utilize services, facilities, and staff provided under agreement between it and any Federal agency, for which such agency may or may not be reimbursed.

SEC. 12. (a) The Commission is authorized, by a vote of two-thirds or more of its members, to require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before any subcommittee or member. Subpenas may be issued under the signature of the chairman or vice chairman and may be served by any person designated by the chairman or the vice chairman.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) of this section by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

Sec. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act, to remain available until expended.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., April 8, 1976.

Hon. CHARLES MC. MATHIAS, JR.
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I am writing to you today as Chairman of the U.S. Conference of Mayors Task Force on Income Security. I understand you are about to introduce legislation to establish a National Commission on the Reform of Income Assistance Program. The Commission would have a one-year mandate to develop detailed welfare reform legislation to submit to Congress.

I strongly endorse this legislation and the goals behind it. Welfare is now recognized as a national problem and as such must be a federalized effort. Local governments can no longer bear the burden of these costs, which if you include medical care for the poor, will total $1.1 billion of New York City tax levy funds for the next fiscal year. Such costs make up a third of our total budget, counting state and federal shares. In addition, those who receive welfare benefits must be given equitable and adequate treatment, while we provide incentives to become self-sufficient through full-time employment. In the final analysis, only the federal government could provide such a program. You have my support in this endeavor and I hope it will receive prompt consideration and enactment.

Sincerely,

ABRAHAM D. BEAME,
Mayor, Chairman,
Task Force on Income Security.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., April 8, 1976.

Hon. CHARLES MC. MATHIAS, JR.
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: I am delighted to learn that you plan to introduce a bill to create a national commission to develop recommendations for reforming the federal income maintenance programs. Reform of the present welfare system is one of NACo's highest priorities and we applaud your leadership in introducing this bill. We believe that the work of such a commission would make a major contribution toward the development of meaningful reform, and we look forward to working with you to get this bill through Congress.

Sincerely,

VANCE WEBB,
President.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the bill be jointly referred to the Committee on Finance and the Committee on Labor and Public Welfare.

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

Mr. BROOKE. Mr. President, I am today joining with Senator MATHIAS in introducing a bill which provides for the establishment of a National Commission on the Reform of Income Maintenance Programs.

The time has long passed for consideration of the problem of the burden of welfare on our Nation's cities and States. Over the years, I have advocated the assumption of responsibility for welfare at the Federal level, and the welfare problem has become particularly urgent with the intensification of the fiscal crisis which confronts our cities and States.

Last year at our hearings in the Banking Committee on the New York City fiscal crisis, I expressed my own grave reservations about the wisdom of financing the debt of New York City through Federal loan guarantees. Based upon my experience in municipal finance, I believe that it is the responsibility of State and local governments to finance their own activities. However, I did vote for the New York City Seasonal Financing Act of 1975. That act provided for short-term, seasonal cash-flow loans of up to $2.3 billion for New York over the next 3 years. The seasonal financing program will assist New York in meeting its short-term cash needs. It will not, however, solve the city's basic economic problems.

At recent oversight hearings on the Seasonal Financing Act, Secretary Simon presented to the Banking Committee some long-term options to help meet the needs of New York and other cities. Among other things, the Secretary observed,

We need a comprehensive re-examination of Federal, State and local relationships in the area of assistance to the disadvantaged.

He cautioned that a change in welfare policy would not in itself be a solution to the financial problems of New York and other cities, and I agree with him on this.

However, Federal assumption of responsibility for welfare would go a long way toward easing the fiscal burdens of our financially strapped cities and States. In New York, for instance, if the Federal Government were to assume all of the city's current welfare obligations, the city's budget deficit would be reduced by about $800 million.

Welfare is truly a national problem and the financing of public assistance must be a Federal responsibility. New York's situation is only the most publicized example of this problem. In fact, the city of Boston has a higher percentage of its population on public assistance than New York does. Philadelphia, St. Louis, Baltimore, Newark, and Washington, D.C., all have higher percentages of welfare recipients than New York. With a declining population, these cities can no longer afford to support their increasing welfare populations.

A dramatic shift in our population has occurred over the past decade or two. There has been a large migration of poor persons from the South and elsewhere to our urban centers, a movement of the middle class to the suburbs, and an aging of the existing population in our cities. The population of the central cities has decreased, while the number of poor persons on welfare has increased. The unavailability of jobs for these people in the cities has increased the welfare burden. At the same time, the loss of a tax base because of the migration of middle-income people and industry to the suburbs has made the burden of paying for welfare even greater for the hard-pressed working people still living in the cities.

Ironically, those cities and States which have tried to provide a decent standard of living for their welfare population, including my own State of Massachusetts, have been forced to bear a disproportionate share of the national welfare burden. A Federal assumption of responsibility for welfare can remove this unfair burden and, at the same time, equalize the benefits available to poor persons in all jurisdictions.

In sponsoring this bill, I am not suggesting that the issues involved in federalization of welfare are simple. We must consider the intricate relationship between our employment program and our welfare policies and, in my opinion, the availability of jobs is our highest national priority. We must deal with regional variations in the cost of living. We must consider the relationship of welfare related services—day care, medicaid, and food stamps. These and other considerations must be carefully weighed.

But it is not as if we have just begun to think about these problems. Congress and the administration have studied, in-

vestigated, and evaluated proposals for dealing with the welfare issue for many years. A decision cannot be put off much longer—if nothing else, the fiscal plight of our cities and States reminds us of that.

What Senator MATHIAS and I are proposing is that we set a definite timetable for consideration of specific proposals to reform the welfare system. I urge my colleagues to support this bill.

By Mr. KENNEDY (for himself and Mr. ROTH):

S. 3281. A bill to provide for the efficient and regular distribution of current information on Federal domestic assistance programs. Referred to the Committee on Government Operations.

FEDERAL PROGRAM INFORMATION ACT

Mr. KENNEDY. Mr. President, for myself and the distinguished Senator from Delaware (Mr. ROTH), I introduce and send to the desk the Federal Program Information Act.

I ask unanimous consent that a joint statement of the Senator from Delaware (Mr. ROTH) and myself be printed in the RECORD, together with the text of the bill.

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

JOINT STATEMENT OF SENATORS EDWARD M. KENNEDY AND WILLIAM V. ROTH, JR.

We are today introducing the Federal Program Information Act. This legislation provides for the efficient and regular distribution of information on all Federal domestic assistance programs.

We are joined by Representative Charlie Rose (D-N.C.) who is introducing similar legislation in the House of Representatives.

The bill establishes a Federal Program Information Center to serve as a single, comprehensive source of timely information on all Federal domestic assistance programs. Using modern technology, the Center will develop a computerized information system to facilitate the widespread dissemination of program information by use of remote computer terminals. The center will also publish a catalog of Federal domestic assistance programs.

The information center would extend and improve upon an information retrieval system presently operated by the Rural Development Service of the Department of Agriculture. The Center would also expand upon the information now published annually by the Office of Management and Budget in the Catalog of Federal Domestic Assistance.

There are over 1,000 Federal programs which provide financial and technical aid to State and local governments and other eligible recipients. Yet there is no easy way to identify these programs and assure full participation by all intended beneficiaries. Many potential beneficiaries are denied access to this assistance by virtue of the difficulty of learning about programs and program requirements, and because of the complexity of determining whether one is eligible. For example, a city or town seeking Federal assistance to build a hospital, a school, or a sewage treatment plant, may spend weeks trying to identify the Federal programs that the community is eligible for and that provide assistance for the intended purpose. In many instances, States and larger cities spend a considerable amount of money maintaining Washington representatives to keep abreast of changes in Federal programs. Smaller cities and towns, that cannot afford a full-time "grantsman", are penalized by receiving less than their fair share of participation in Federal programs.

The legislation that we have introduced today will reduce the inequities and inefficiencies inherent in the present information system. The bill would establish a single source of up-to-date information concerning all Federal domestic assistance programs and would provide the information quickly and in a manner that maximizes its usefulness to State and local governments and to other intended beneficiaries.

A potential applicant would feed into the computer some basic information on his project needs and would provide a simple profile of his community. The computer would then furnish a listing of all programs for which the individual meets the basic eligibility criteria. This comprehensive, quick and easy-to-use system offers a significant improvement over the cumbersome methods now in use.

This legislation also provides for more complete disclosure of pertinent program information. Of particular importance, the bill would provide meaningful financial information for each program, including the current appropriation and the level of uncommitted funds.

The intended beneficiaries of Federal grants programs have a right to the full, fair, and timely disclosure of program information. Furthermore, the Federal govenment has a responsibility to make this information readily available, using the best available technology.

The Federal Program Information Act is an important step toward the goal of eliminating the yards of red tape that surround Federal assistance programs, and ensuring that Federal funds are used fairly and efficiently.

S. 3281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Program Information Act".

FEDERAL PROGRAM INFORMATION CENTER

SEC. 2. The President shall establish a Federal Program Information Center (referred to in this Act as the "Center").

PURPOSE OF CENTER

SEC. 3. The Center shall be designed to identify all existing Federal domestic assistance programs, wherever administered, and to provide information on each program to the general public through computer terminals and through a published catalog.

INFORMATION REQUIREMENTS

SEC. 4. (a) The Center shall establish and maintain a data base which, for each Federal domestic assistance program—

(1) identifies the program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Center;

(2) describes the program, the objectives of the program, and the types of projects which have been funded under the program;

(3) describes the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provides financial information, including, if available, the amount of funds appropriated for the current fiscal year, the amounts obligated in past years, the average amounts of awards made in past years, and, to the extent feasible, current information on the amount of funds not already obligated nor otherwise committed;

(5) identifies information contacts, including the administering office and regional and local offices, and their addresses and telephone numbers;

(6) provides a general description of the application requirements and procedures and an estimate of the time required to process the application; and

(7) identifies programs which provide similar types of assistance.

(b) (1) Each Federal agency shall furnish to the Center, at such times as the Center may determine, current information on all domestic assistance programs administered by that agency.

(2) The Center shall on a regular basis incorporate into the data base all relevant information received under paragraph (1).

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 5. (a) The Center shall establish and maintain a computerized program information system (referred to in this Act as the "information system").

(b) The information system shall be designed to provide the potential beneficiary with a listing of programs for which he meets the basic eligibility criteria, and with such information on these programs as is contained in the data base.

(c) The Center, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals maintained by the Federal government or owned or operated by State or local governmental units or their designees, by federally recognized Indian tribes or their designees, by private organizations, or by individuals.

(d) The Center is authorized to enter into contracts with private organizations to obtain assistance for the development and maintenance of the information system and to obtain computer time sharing services.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 6. (a) The President shall prepare and publish each year a catalog of Federal domestic assistance programs (referred to in this Act as the "catalog").

(b) The President shall prepare and publish supplements to the catalog as necessary, *but not less than once each year.*

(c) The catalog shall contain, in such form as the President determines—

(1) all information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the President considers helpful to potential applicants under such programs; and

(3) a detailed index.

(d) (1) The President shall make the catalog available to the public at a price approximately equal to the cost of its preparation.

(2) There are authorized to be distributed without cost not to exceed 30,000 catalogs to Members of Congress, Resident Commissioners, Federal agencies, State and local units of government, federally recognized Indian tribes, and other local repositories designated by the President.

DEFINITIONS

SEC. 7. For the purposes of this Act—

(1) the term "Federal domestic assistance program" means any program, activity, service, or project of a Federal agency which provides assistance to an eligible applicant, including a State or local government, or any instrumentality thereof, a federally recognized Indian tribe, a domestic profit or nonprofit corporation or institution, or an individual;

(2) the term "assistance" includes grants, loans, loan guarantees, scholarships, mortgage loans and insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance and counseling; but does not include provision of conventional public information services:

(3) the term "administering office" means

the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program;

(4) the term "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code; and

(5) the term "computer time sharing services" includes the use of a computer, telecommunications network, computer software, and associated services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. MATHIAS, Mr. MORGAN, Mr. NUNN, Mr. PASTORE, Mr. PELL, Mr. HUGH SCOTT, and Mr. TALMADGE):

S. 3282. A bill to authorize the establishment of the Eutaw Springs National Battlefield Park in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

EUTAW SPRINGS NATIONAL BATTLEFIELD PARK, S.C.

Mr. THURMOND. Mr. President, the Battle of Eutaw Springs was one of the great battles of the American Revolution. It was one of the six battles of the American Revolution for which the Continental Congress authorized a gold medal in honor of the victory. In 1785–86 under the supervision of Benjamin Franklin and Thomas Jefferson the six gold medals were struck in Paris, France. It is interesting to note the largest gold medal of the six honored Gen. George Washington for "The Retreat of the British From Boston," and the second largest gold medal honored Maj. Gen. Nathanael Greene for the Battle of Eutaw Springs. Forty-five counties in 21 States honor the heroes of the battle. It was perhaps the hardest fought battle of the war. With only one-fifth as many troops committed to battle, its casualties exceeded those at Yorktown. Gen. Nathanael Greene of Rhode Island commanded. Troops from at least 11 of the original 13 States fought in the battle. The American Forces, consisting of Continental Troops and State Militia, fought with conspicuous gallantry.

The Continental Troops included Captain Kirkwood's "Blue Hen's Chickens" from Delaware, Col. John Eager Howard and the Second Maryland Line, and Lt. Col. "Light-Horse Harry" Lee of Virginia who commanded Lee's Legion. North Carolina's heroes included Gen. Jethro Sumner and Maj. John B. Ashe. South Carolina's included Gen. Francis Marion, the famous "Swamp Fox," Gen. Andrew Pickens, Col. Wade Hampton who commanded Thomas Sumter's troops, and Col. William Washington who settled in Charleston after the war. Col. Joseph Habersham of Georgia was another hero of the battle. John Adair who served gallantly in the battle later served as a U.S. Senator and Governor of Kentucky. He commanded the Kentucky Volunteers in the Battle of New Orleans as a major general. Another gallant soldier in the battle was Col. Lewis Morris, Jr., of New York State, a son of Lewis Morris, a signer of the Declaration of Independence from New York.

Of the heroes of the battle, at least 14 would later be elected to the U.S. Congress from six different States, including the ones who would be elected Governors of North Carolina, Virginia, Maryland, and Kentucky. Others would serve in Congress from Georgia and South Carolina. Among the many heroes of the battle who gave their lives for the Nation was Gen. Nathanael Greene's black orderly, a free man from Maryland, who was cited for his gallantry by General Greene.

The Battle of Eutaw Springs has always been a part of the inspiring heritage of South Carolina and of the Nation. The heroes of the battle are mentioned in Henry Timrod's poem, "Carolina," South Carolina's State song. The bronze doors of the U.S. House of Representatives in Washington, D.C., cast in 1902, portray eight scenes of history. One of the eight scenes is the presentation of the flag and medal to Gen. Nathanael Greene for the Battle of Eutaw Springs.

The Battlefield of Eutaw Springs is located in Orangeburg County, S.C. Less than 5 percent of the original battlefield is flooded by the Santee-Cooper Lake. A resolution of the South Carolina General Assembly, cosponsored by 93 members, asked for the development of the Eutaw Springs National Battlefield. Mr. President, I ask unanimous consent that this resolution be printed in the RECORD at the conclusion of my remarks.

It has also been endorsed by the National Advisory Council on Historic Preservation and the South Carolina American Revolution Bicentennial Commission. Its supporters include members of both parties and both races.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, I am introducing legislation which represents a bipartisan effort to give proper recognition to one of the great battles of the American Revolution by establishing the Eutaw Springs National Battlefield. Eutaw Springs occupies a significant part of our national heritage and the establishment of a national battlefield in its honor would be for the benefit and enjoyment of all Americans.

I ask that my colleagues join me in supporting this important legislation. Mr. President, at this time, I send the bill to the desk and I ask unanimous consent that the bill, together with an article entitled "The Battle of Eutaw Springs" by South Carolina Representative Sam P. Manning, be printed in the RECORD.

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

S. 3282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve, protect, and interpret an area of unique historical significance, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Eutaw Springs National Battlefield Park (hereinafter referred to as the "Battlefield") in the State of South Carolina. The battlefield shall comprise the area depicted on the map entitled " ", numbered , and dated , which shall be one file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. The Secretary may make minor adjustments in the boundaries of the Battlefield from time to time by publication of the description of such adjustments in the Federal Register.

SEC. 2. Within the boundaries of the Battlefield, the Secretary may acquire lands and interests in lands by donation, purchase, exchange, or transfer. Any lands or interests in land owned by the State of South Carolina or its political subdivisions may be acquired only by donation. When any tract of land is only partly within the boundaries of the Battlefield, the Secretary may acquire all or any portion of that tract outside the boundaries in order to minimize the payment of severance costs. Land so acquired outside the boundaries of the Battlefield may be exchanged by the Secretary for non-Federal lands within the boundaries of the Battlefield. Any portion of land acquired outside the boundaries of the Battlefield and not exchanged shall be transferred to the Administrator of the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). When the Secretary determines that he has acquired sufficient lands or interest in lands to constitute an administrable unit, he shall establish the Eutaw Springs National Battlefield by publication of a description thereof in the Federal Register.

SEC. 3. The Secretary shall administer the Battlefield in accordance with the Act of August 25, 1916 (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 4. The Act of June 26, 1936 (16 U.S.C. 423m–4230), is repealed.

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

THE BATTLE OF EUTAW SPRINGS

(By Representative Sam. P. Manning)

INTRODUCTION

One cannot read about the sacrifices, statistics, heroes and effects of the Battle of Eutaw Springs without becoming aware of its place in American history. It is very much a part of the heart and heritage of the nation. A Eutaw Springs National Battlefield would serve as a reminder of the unselfish patriotism of those who helped found the nation.

NATIONAL SIGNIFICANCE

The Battle of Eutaw Springs, September 8, 1781, was one of the great battles of the American Revolution. It was one of the six military engagements of the war in which the Continental Congress authorized a gold medal in honor of the victory. The others were: the Retreat of the British from Boston, 1776; the Battle of Saratoga, 1777; Stony Point, New York, 1779; Paulus Hook, New Jersey, 1779; and the Battle of Cowpens, 1781. For the naval victory of the Bonhomme Richard over the Serapis, 1779, a gold medal was also authorized which was presented to Captain John Paul Jones. For the Battle of Yorktown, 1781, a marble obelisk was authorized upon which was to be inscribed the Seal of the United States and that of France.

The gold medals were designed under the supervision of Benjamin Franklin and Thomas Jefferson in Paris, France in 1785–86. The largest gold medal was presented to General Washington for The Retreat of the British from Boston. The gold medal presented to Major General Nathanael Greene for the Battle of Eutaw Springs was second in size only to the gold medal presented to

General Washington. The gold medal presented to General Greene was of equal size to the one presented to Captain John Paul Jones. The other gold medals according to size were presented respectfully to Brigadier General Daniel Morgan for the Battle of Cowpens, Major General Horatio Gates for Saratoga, Brigadier General Anthony Wayne for Stony Point and Lieutenant Colonel Henry Lee for Paulus Hook.

One of the eight scenes of history on the bronze doors of the United States House of Representatives is the scene of the presentation of the gold medal to General Nathanael Greene for the Battle of Eutaw Springs. Authorized in 1858, it was cast in 1902. At least fifty counties in twenty-one states are named in honor of heroes of the Battle of Eutaw Springs. Many of the heroes of the engagement are equally deserving of remembrance and their gallantry and sacrifice are very much a part of the heritage and history of our nation.

The Battle of Eutaw Springs was perhaps the hardest fought battle of the Revolution. It was the culmination of Major General Greene, "The Fighting Quaker From Rhode Island's" brilliant campaign to free the southern states from the yoke of British tyranny.

Both the American and British forces fought with conspicuous gallantry. The casualties in relationship to numbers engaged exceeded every other major battle of the war except Bunker Hill. The American Force consisted of approximately 2,200 men, both Continental Soldiers and State Militia. They came from at least eleven of the original thirteen states and from France and Poland. Among the gallant group of heroes was a Company of Catawba Indians. One of the heroes who gave his life in the battle for our country was General Nathanael Greene's black orderly, a free man from Maryland, who was cited for his gallantry by General Greene.

The American force suffered 554 casualties: 139 killed, 375 wounded and 40 missing, or 25%. The British force of approximately 2,000 suffered 936 casualties, consisting of 85 killed, 421 wounded and 430 missing, or 47%. With one-fifth as many troops in battle, the casualties at Eutaw Springs exceeded those at Yorktown. It has been stated the British suffered at the Battle of Eutaw Springs the highest percentage of losses sustained by any force during the war.

General Greene, a veteran of some of the hardest fought battles of the war, including Brandywine and Guilford Court House, said that the fighting at Eutaw Springs was the fiercest that he had ever seen. He also spoke of his great pride in the gallantry of his officers and men, both Milita and Continentals.

The battle occurred on a sandy road in partly open country near Eutaw Springs, S.C., a few miles from the Santee River. Approximately 5% of the battlefield is now flooded by Lake Marion. After the battle in the summer heat, General Greene pulled back his troops to a nearby spring and the following morning Colonel Stewart, the British Commander, ordered his men to march posthaste to Charleston in order to protect themselves from Greene's army. In their effort to escape they threw away 1,000 rifles or muskets and destroyed 30 cases of rum. Under the orders of General Greene, Francis Marion, "The Swamp Fox," and Lieutenant Colonel "Light Horse Harry" Lee and their commands pursued Colonel Stewart and his forces to the gates of Charleston.

After much sacrifice and hardship most of North Carolina, South Carolina and Georgia had been freed from British rule.

Lieutenant Colonel Henry Lee carried the message of the victory to Washington and made a personal report.

The victory closed one possible route of escape for Cornwallis. The following month the American cause was again victorious at Yorktown.

General George Washington congratulated General Greene on the victory. The Continental Congress passed a Resolution, a copy of which is attached to this article, in which it authorized that a gold medal be presented to General Greene together with the British Standard captured in the battle. It also commended the Continental Army units from Delaware, Maryland and Virginia for their "unparalleled bravery and heroism", the Legion for its gallantry", the troops from North Carolina for their "resolution and perseverance", the state troops from South Carolina for their zeal and firmness", the Militia from the several states for "sustaining their post with honor" and expressed particular appreciation to General Francis Marion for his services in behalf of the country and for his gallant leadership in the Battle.

Many states sustained painful losses. North Carolina furnished more troops, both Continentals and Militia, and suffered more casualties than any other state. At Eutaw Springs she also sustained more casualties than in any other battle of the Revolution. In the past General Greene had at times criticized Militia soldiers for their action in combat; at Eutaw Springs he spoke of them with the highest praise.

The famous British Historian George Otto Trevelyan wrote in his famous "History of the American Revolution," "At Eutaw Springs many of the Continental Infantry, the cloth of whose coats had long ago rotted off them in fragments 'fought with pieces of moss tied on the shoulder and flank to keep the musket and cartridge box from galling.'"

John Adams wrote that the significance of the Battle of Eutaw Springs was equal to Yorktown. Eutaw Springs, like Yorktown and Cowpens, Saratoga and Boston, is very much a part of the history of the nation. The gallant men who fought and died there, so that independence and liberty might be achieved, are deserving of remembrance. Where they fought, bled and died is sacred soil, consecrated by the blood of patriots who laid down their lives on the altar of freedom. Their sacrifices inspired Phillip Freneau, "Poet Laureate of the American Revolution," to write the poem "At Eutaw Springs the Valiant Died." Henry Timrod in his famous poem "Carolina" mentions their sacrifices again in the poetic and somber phrase, "Hold up the honored glories of thy dead and point to Eutaw's battle bed, Carolina." "Carolina" is the state song of South Carolina.

HEROES FOR THE COUNTRY

General Nathanael Greene is generally recognized as next to General George Washington as the finest military leader produced in the American Revolution. A member of the legislature of Rhode Island, he was a private in that state's Provincial Troops. Due to a slight limp he was unable to receive a commission as a company officer, but when the Revolution started due to his ability and knowledge of military tactics he was appointed a Brigadier General. He served throughout the war with great distinction. Acclaimed "The Savior of the South" he was presented with a plantation for his services by the State of Georgia. After the war due to ill health he moved from Rhode Island to Georgia in 1785 and died in 1786 at the age of 44. Mrs. Greene, Colonel Henry Lee and General Anthony Wayne were at his bedside. Colonel Lee, then a member of Congress, wrote to General Washington, "Your friend and second, the patriot and noble Greene, is no more. Universal grief reigns here. How hard is the fate of the United States to lose such a man in middle life! But he is gone and I am incapable to say more." The statue of General Nathanael Greene in the Hall of Heroes in the Rotunda in our nation's capitol in Washington, D.C. was the first to be placed there by any of the states. He was selected by his native state of Rhode Island for this position of honor.

At Eutaw Springs, General Greene had an extraordinary number of able and gallant officers and men to serve in his command. His command also included some of the great military units of the war. There was in fact a galaxy of heroes. A number of them achieved military fame but never sought high political office. Of these General Greene was the most famous. General Francis Marion, the "Swamp Fox," who was a native of South Carolina was another. More counties are named in his honor than any other military hero of the Revolution except President Washington. Seventeen states have a county named in honor of Francis Marion. General Jethro Sumner of North Carolina was one of North Carolina's ablest military leaders in the war. He served with marked distinction and with little public acclaim. General Otho Holland Williams of Maryland served in the Maryland Line of the Continental Army with distinction and prominence. Colonel William Washington of Virginia, with Lieutenant Colonel "Light Horse Harry" Lee, was one of the two famous cavalry leaders of the Revolution. He was also one of the four men in the American Revolution to receive a silver medal from the Continental Congress. Both he and Lieutenant Colonel John Eager Howard received their awards for the Battle of Cowpens. Colonel Francis Harris of Georgia who served from 1775 until his death in 1782 in the Continental Line from the State of Georgia and Captain Kirkwood, the legendary commander who commanded Delaware's "Blue Hen's Chickens," the nickname for the Delaware Line, also served at Eutaw Springs with distinction. Colonel Harris' home "Wild Heron" still stands, the oldest plantation house in Georgia.

Count Thaddeus Kosciuszko, a gallant volunteer from Poland, was a veteran of the Battle of Saratoga. He was the Engineer for General Greene's army at the Battle of Eutaw Springs. After the Revolution he gained lasting fame when he fought to establish the independence of Poland.

Marquis de Malmady, a volunteer from France, served as a Colonel in the North Carolina Militia and commanded the North Carolina Militia at the Battle of Eutaw Springs. His battalion commanders included Major Pleasant Henderson, a brother of General William Henderson who commanded the South Carolina State Troops due to General Thomas Sumter's wound. When Henderson was wounded in the battle Colonel Wade Hampton assumed command. One of Hampton's commanders was Major William Polk of North Carolina. He was a kinsman of the President and the father of "The Fighting Bishop" Lieutenant General Leonidas Polk of the Confederacy, the founder of Sewanee University. Pleasant and William Henderson were the uncles of Pinckney Henderson, the first Governor of Texas. General Andrew Pickens' command at the Battle of Eutaw Springs included Captain Joseph Hughes, a veteran of Kings Mountain and Cowpens, who served as a Colonel in the Alabama Militia in the 1820's.

Corporal William Cooper of Pennsylvania served as an officer in the Navy in the War of 1812 and in 1848 he was still on active duty in the Navy at Philadelphia, Pennsylvania. This was more than sixty years after his gallant service at the Battle of Eutaw Springs. He was an uncle of the author, James Fenimore Cooper. Colonel Matthew Irvine, like Cooper, was a member of Lee's Legion. He was a brother of General William Irvine of Pennsylvania who was a member of the Continental Congress. Lieutenant James Lovell of Boston, Massachusetts, graduated at Harvard in 1776. At Eutaw Springs he fought with Lee's Legion. His father was James Lov-

ell, the speaker at the first anniversary of the Boston Massacre in 1771, a member of the Continental Congress and Chairman of the Committee that designed the Seal for the United States. Lieutenant Colonel Lewis Morris, Jr. served as an aide to General Greene in the Battle. His father, General Lewis Morris, signed the Declaration of Independence for the State of New York, and his Uncle Gouverneur Morris was a delegate to the United States Constitutional Convention for the State of Pennsylvania.

Those who served at Eutaw Springs who later achieved political prominence are legion. Lieutenant Colonel John Eager Howard of Maryland, one of the Continental Army's most famous soldiers, recipient of a silver medal for the Battle of Cowpens, mentioned in Maryland's State Song, "Maryland, My Maryland," was elected Governor and United States Senator from the State of Maryland and Lieutenant Phillip Stuart served as a member of Congress from that state. Lieutenant Colonel "Light Horse Harry" Lee of Virginia was one of the legendary heroes of the Revolution. He was a recipient of a gold medal for the Battle of Paulus Hook, a member of Congress, Governor of Virginia, and an orator who expressed the phrase concerning Washington at the time of his death, "First in war, first in peace, first in the hearts of his country men." His famous son was General Robert E. Lee of the Confederacy. Lieutenant Peter Johnson, Speaker of the Virginia House of Burgesses, and Judge, was the father of General Joseph E. Johnson of the Confederacy; Major Joseph Eggleston was a member of Congress from Virginia. Major John Batista Ashe served as Speaker of the North Carolina House of Representatives and as a member of Congress from North Carolina. Elected Governor of the state, he died before assuming office.

Major Thomas Blount who commanded a battalion of North Carolina Militia was a member of Congress from North Carolina. He was a brother of Senator William Blount of Tennessee.

General Andrew Pickens, one of the legendary heroes of the war, and a famous indian fighter, was a member of Congress from South Carolina as was Colonel Robert Anderson and Captain William Butler. Colonel Wade Hampton, who was conspicuous for his leadership in the battle, was a member of Congress from South Carolina and a Lieutenant General in the War of 1812. Lieutenant John Adair, who served with the South Carolina State Troops in the Battle of Eutaw Springs, served as a member of Congress, Governor and United States Senator from Kentucky. He also commanded the Kentucky Volunteers at the Battle of New Orleans as a Major General.

Colonel Samuel Hammond, a member of Congress from Georgia, was appointed by Thomas Jefferson in 1804 First Civil and Military Officer for the Upper Louisiana Territory. He was elected First President of the Territorial Council of Missouri in 1820. Major William Pierce was a member of Congress from Georgia and a delegate to the United States Constitutional Convention. Major Nathanael Pendleton was a member of Congress from Georgia and a Federal Judge. His grandson George Hunt Pendleton was a member of the United States Senate from Ohio and a supporter of the Union during the Civil War. He was a Vice Presidential nominee in 1864.

These are but a few of the gallant men who served with such courage at the Battle of Eutaw Springs. Many of their comrades were killed in the battle and many were maimed for life. Through their efforts a great deal was achieved toward the achievement of independence and the ultimate founding of the nation.

After the war was won and independence achieved many of the gallant soldiers of the Revolution became famous heroes, some were legends in their life time. After the Louisiana Purchase in 1803 the nation found a new source of security. New states were created, counties established, towns built. The people often named their counties or towns for the heroes who fought for independence. Next to General Washington, General Francis Marion, the "Swamp Fox" and General Nathanael Greene were two of the most popular.

Seventeen states have counties named in honor of General Marion, fourteen have counties named in honor of General Greene, six have counties named in honor of Lieutenant Colonel John Eager Howard, four have counties named in honor of Lieutenant Colonel "Light Horse Harry" Lee, three have counties named in honor of John Adair, and two states have counties named in honor of General Andrew Pickens. Counties are also named in honor of Count Kosciusko, Colonel Horry of Marion's Command, Colonel Anderson and Major Pierce.

This is particularly noticeable in the states of the midwest. Illinois for instance has counties named in honor of General Greene, Colonel "Light Horse Harry" Lee, and General Francis Marion, "The Swamp Fox." Indiana has counties named in honor of General Greene, Colonel John Eager Howard, Count Kosciusko and General Marion. Ohio has counties named in honor of General Greene and General Marion. Missouri has counties named in honor of General John Adair, General Greene, Colonel Howard and General Marion. Iowa has counties named in honor of General John Adair, General Greene, Colonel Howard, General Marion and Colonel Lee.

New York and Pennsylvania have counties named in honor of General Greene and Maryland has a county named in honor of Colonel Howard. Virginia has counties named in honor of General Greene and Colonel Lee and West Virginia has a county named in honor of General Marion. North Carolina has a county named in honor of Colonel John B. Ashe and his family and a county named in honor of General Greene, South Carolina has counties named in honor of General Marion, General Pickens, Colonel Anderson and Colonel Horry. Georgia has counties named in honor of General Greene, General Marion, General Pickens and Major Pierce. Alabama, Arkansas, Mississippi and Tennessee have counties named in honor of General Francis Marion and General Nathanael Greene. Kentucky has counties named in honor of John Adair and General Marion. Florida, Texas, Kansas, Massachusetts and Oregon also have counties named in honor of General Marion.

Many of the heroes of the Battle of Eutaw Springs became legends of the land and some place names for the nation. Others equally deserving are often forgotten. Colonel Henry Lee writing over thirty years after the battle mentions one of the gallant soldiers who was then forgotten. The following quote from Colonel Lee's "Memoirs" is given in David Schenck's classic work The Invasion of North Carolina 1780–81.

"The State of Delaware furnished one regiment only, and certainly no regiment of the army surpassed it in soldiership. The remnant of the corps, less than two companies, from the battle of Camden, was commanded by Capt. Kirkwood, who passed through the war with high reputation; and yet, as the line of Delaware consisted of but one regiment, and that regiment reduced to a captain's command, Kirkwood never could be promoted in regular routine—a very glaring defect in the organization of the army, as it gave advantages to parts of the same army denied to other portions of it. The sequel is singularly hard. Kirkwood retired, upon peace, a captain; and when the Army, under St. Clair, was raised to defend the west from the Indian enemy, this veteran resumed his sword as the eldest captain of the oldest regiment. In the decisive defeat on the 4th of November, the gallant Kirkwood fell, bravely sustaining his point of the action. It was the thirty-third time he had risked his life for his country; and he died as he lived—brave, meritorious, unrewarded Kirkwood."

A copy of General Nathanael Greene's Report to the President of the Continental Congress is attached to this article. The gallant patriots who fought at Eutaw Springs gave to the American people a rich inheritance of courage and sacrifice. In the words of General Greene, "For never did either men and officers offer their blood more willingly in the service of their country."

SOLDIERS OF THE KING

The formidable forces of the King at Eutaw Springs were commanded by Lieutenant Colonel Alexander Stewart, an able British officer. Stewart had succeeded Lord Rawdon as field officer for South Carolina when Rawdon sailed for England in late July due to poor health. Rawdon was hated by the patriots for his part in the execution of the American martyr, Colonel Issac Hayne. In Great Britain, Rawdon regained his health, became a full General in the British Army and Governor-General of India.

Colonel Stewart had landed with his Regiment, the "Irish Buffs," in Charleston on June 4, 1781. In June they marched to the defense of Ninety Six and now, three months after their arrival, they faced the American forces commanded by General Green at Eutaw Springs.

Colonel Stewart was not a Lord but he was an experienced soldier. His command at Eutaw Springs consisted of his Regiment, the 3rd Foots, "Buffs," one of the great Regiments in the British Army; elements of the 19th and 30th British Foot Regiments; the understrength 63rd and 64th Foot; "Crugers New York Tories" commanded by Colonel J. Harris Cruger; and Coffins South Carolina Horse commanded by Major John Coffin. Stewart's artillery included two six pounders, one four pounder, a three pounder, and one swivel gun. With the exception of Coffin's unit all were experienced in battle and most were British regulars.

Colonel Stewart's men fought with great bravery at Eutaw Springs. They inflicted serious injuries on the American forces, but they were in the final result defeated, a matter Colonel Stewart refused to admit in his report. Lieutenant Colonel Stewart was promoted to Colonel in 1782 and to Major General in 1790. He died in 1794 at the age of fifty-three.

Colonel J. Harris Cruger, a native of New York City, was one of the ablest Tory officers of the Revolution. Both his grandfather and uncle served as Mayor of New York City and his brother Henry served as a member of the British Parliament. Colonel Cruger's wife was a daughter of Brigadier General Oliver De Lancey, the Senior Loyalist or Tory Officer in America. Colonel Cruger's brother-in-law, Lieutenant Colonel Oliver De Lancey, Jr., was also loyal to his King. After the Revolution De Lancey, was a member of the British Parliament and became a full General in the British army. In New York City the De Lancey, Cruger and Livingston families were powerful and rich before the Revolution. The Crugers and De Lanceys sided with the King and when independence was achieved they left for England. The Livingstons fought for independence and they remain a powerful and wealthy family in New York State. Lieutenant Cruger served throughout the Revolution. From the attack on Savannah 1779 to 1782, he served in the South. In 1781 he was commended for his bravery at the Defense of Ninety Six and at the Battle of Eutaw Springs. After the war he moved to England where he died.

Major John Marjoribanks is the most

famous of the British heroes of Eutaw Springs. He commanded the British battalion on the right flank consisting of elements of the "Buffs", Marjoribanks Regiment, the 19th Foot, and the 30th Foot. He helped rally the British forces as some of the American soldiers stopped to drink freely of some British rum that they discovered in the British camp. It was a crucial point in the battle. The American soldiers were no doubt hot and exhausted but their action was injurious to the cause. By Marjoribanks' gallant leadership, the British force was saved from complete destruction. The British counterattacked. Some of the British soldiers occupied a three story brick house used as a fort and covered part of the battlefield with a withering fire. The Americans attacked the house with great gallantry but without the desired success. Marjoribanks was wounded in the battle and died three days later. He had served in the British Army for thirty-two years.

Captain Sir Henry Barre was one of the soldiers of the King. He must have been in the brick house for protection for if he had any fighting blood, history has done him an injustice. His strength appears to have been in writing reports. As Colonel Stewart's report expresses his gratitude to Captain Barre one wonders if he did not assist in the authorship. An interesting episode is given concerning Captain Barre at Eutaw Springs by Lossing, Vol. II, page 703.

In one of the attacks on the brick house the Americans were almost successful. Captain Laurence Manning who commanded the infantry of Lee's Legion was almost in the front door but most of his command had been held back by the British fire.

"Capt. Manning, who commanded Lee's infantry, grabbed as his shield a British officer who protested by solemnly reciting his titles: 'I am Sir Henry Barre,' he is alleged to have said, 'deputy adjutant general of the British army, captain of the 52d regiment, secretary of the commandant at Charleston . . .' 'Are you, indeed?' interrupted Manning; 'you are my prisoner now, and the very man I was looking for; come along with me.'"

Captain Barre's brother Isaac, however, was his complete opposite. Colonel Isaac Barre was a man of eloquence and courage. As a young officer in the British army he served with Wolfe at Quebec. He was beside him at the time of his death and is portrayed in the famous painting by Benjamin West. Elected to Parliament he defended the rights of the colonists before Parliament and in 1765 coined the phrase "The Sons of Liberty" which was adopted by the patriots in the thirteen colonies. Wilkes-Barre, Pennsylvania, is named in his honor and in honor of the colonists' other friend in Parliament, John Wilkes. Isaac Barre's speechs to Parliament in criticism of the British army deeply offended in the next century the British historian Fortesque who mentioned this feeling in his classic history "The British Army." Barre became blind in 1783 and was defeated for Parliament in 1790. He died six years later. Colonel Barre's brother Captain Henry Barre who was captured and cited at Eutaw Springs is reported to have redeemed himself while serving in India.

Lord Edward Fitzgerald known to history as the "Irish Rebel" was wounded at Eutaw Springs at the age of eighteen fighting for his King. His father was a member of the Irish nobility, the twentieth Earl of Kildare. His father was also the first Irishman to be made a Duke by the English King. The Duke of Leinster is still one of the twenty-seven Dukedoms in the Kingdom, but they no longer reside in Ireland. Their private home Leinster House is now the home of the Irish Parliament in Dublin, Ireland.

At Eutaw Springs Lord Fitzgerald's life was saved by a young black, "Toney," who became his devoted servant. Fitzgerald after the Revolution was initiated into the Bear Indian tribe near Detroit and went down the Mississippi River in a canoe. In 1792 he became a friend of Thomas Paine, the author of "Common Sense," while living in Paris, France. Elected to the Irish Parliament in 1792, he joined the group known as "Irishmen United" and spoke out in favor of Irish Independence and against interited titles. He refused to run again for the Irish Parliament in 1797. He was arrested by the authorities for encouraging rebellion in 1798 and died of wounds received at the time of his arrest. He was survived by his wife and three minor children.

Major John Coffin was a native of Boston. A distant kinsman of Benjamin Franklin, Coffin fought for his King at Bunker Hill. He was an able and experienced soldier. In the six years he fought in many battles. At Eutaw Springs he continued to fight with courage and bravery. After the Revolution he moved to Nova Scotia. He remained in the British army, however. At the time of his death in 1838 he was the senior full General in the British army. His brothr Isaac served in the British Navy during the Revolution. He was later Knighted, promoted to full Admiral and elected to Parliament. Mayor John Coffin's son, Thomas, was a member of the Canadian Parliament.

A Eutaw Springs National Battlefield, a Status Report

A few years after the Revolution, most of the Eutaw Springs Battlefield was purchased by the Sinkler family. It remained in their possession until condemned by the Santee-Cooper Authority in 1938. The springs at this time retained their national grandeur and the battlefield was an area of natural beauty.

The construction of Lake Marion by the Authority flooded approximately three to five per cent of the battlefield. It is still an area of great potential beauty. A small park of three or four acres commemorates the battlefield today. It is an inadequate commemoration of one of the great battles of the American Revolution, when five hundred Americans were wounded or died for freedom and won a "signal victory" for liberty and independence.

In 1973 the South Carolina General Assembly passed a Resolution asking for the development of a Eutaw Springs National Battlefield. It was endorsed by the State American Revolution Bicentennial Commission and sponsored by ninety-three members of the House of Representatives. The development of a Eutaw Springs National Battlefield was subsequently endorsed by the National Commission on Historic Preservation, a Commission appointed by the President and charged by statute with the responsibility of advising Congress on such matters.

Congressman Spence in October, 1974, introduced legislation for a Eutaw Springs National Battlefield. He was joined by South Carolina's five other Congressmen: Congressman Dorn, Congressman Gettys, Congressman Mann, Congressman Davis and Congressman Young, and the following Congressmen from other states: Congressman Haley of Florida, Congressman Stephens of Georgia, Congressman Taylor, Congressman Preyer and Congressman Martin of North Carolina, Congressman du Pont of Delaware and Congressman Robert N. C. Nix of Pennsylvania.

In the reintroduction of the legislation for 1975 South Carolina's three new Congressmen: Congressman Derrick, Congressman Holland and Congressman Jenrette will also be co-sponsors. It is hoped that all of the original co-sponsors will continue and other members of Congress will also join as co-sponsors of the legislation.

In October, 1974, Senator Thurmond of South Carolina was joined by Senator Hollings of South Carolina in the introduction of legislation for a Eutaw Springs National Battlefield.

Other co-sponsors were Senator Talmadge and Senator Nunn of Georgia, Senator Ervin and Senator Helms of North Carolina, Senator Gurney of Florida, Senator Mathias of Maryland, Senator Hugh Scott of Pennsylvania and Senator Pastore and Senator Pell of Rhode Island.

In the reintroduction of the legislation in the Senate for 1975 Senator Morgan of North Carolina and Senator Huddleston will join as co-sponsors. It is also hoped that all of the original co-sponsors of the legislation will continue and that additional Senators will join as co-sponsors of this legislation.

Attachment A

By the United States in Congress assembled, October 29th, 1781.

Resolved, That the thanks of the United States in Congress assembled, be presented to Major-General Greene, for his wise, decisive, and magnanimous conduct in the action of the 8th of September last, near the Eutaw Springs, in South Carolina; in which, with a force inferior in number to that of the enemy, he obtained a most signal victory.

That the thanks of the United States, in Congress assembled, be presented to the officers and men of the Maryland and Virginia brigades, and Delaware battalion of Continental troops, for the unparalleled bravery and heroism by them displayed, in advancing to the enemy through an incessant fire, and charging them with an impetuosity and ardor that could not be resisted.

That the thanks of the United States, in Congress assembled, be presented to the officers and men of the Legionary corps and artillery, for their intrepid and gallant exertions during the action.

That the thanks of the United States, in Congress assembled, be presented to the brigade of North Carolina, for their resolution and perseverance in attacking the enemy, and sustaining a superior fire.

That the thanks of the United States, in Congress assembled, be presented to the officers and men of the State corps of South Carolina, for the zeal, activity, and firmness by them exhibited throughout the engagement.

That the thanks of the United States, in Congress assembled, be presented to the officers and men of the militia, who formed the front line in the order of battle, and sustained their place with honor, propriety, and a resolution worthy of men determined to be free.

Resolved, That a British standard be presented to Major-General Greene, as an honorable testimony of his merit, and a golden medal emblematical of the battle and victory aforesaid.

That Major-General Greene be desired to present the thanks of Congress to Captains Pierce and Pendleton, Major Hyrne and Captain Shubrick, his aids-de-camp, in testimony of their particular activity and good conduct during the whole of the battle.

That a sword be presented to Captain Pierce, who bore the general's dispatches, giving an account of the victory; and that the board of war take order herein.

Resolved, That the thanks of the United States, in Congress assembled, be presented to Brigadier-General Marion, of the South Carolina militia, for his wise, gallant, and decided conduct in defending the liberties of his country; and particularly for his prudent and intrepid attack on a body of British troops, on the 30th day of August last; and for the distinguished part he took in the battle of the 8th of September. Extract from the minutes.

Charles Thompson, *Secretary.*

ATTACHMENT B

Head-Quarters: Martin's Tavern, Near Ferguson's Swamp, South Carolina, September 11, 1781.

Sir,—In my last dispatch, of the 25th of August, I informed your excellency that we were on our march for Friday's Ferry, to form a junction with the State troops and a body of militia, collecting at that place, with an intention to make an attack upon the British army lying at Colonel Thompson's near McCord's Ferry. On the 27th, on our arrival near Friday's Ferry, I got intelligence that the enemy were retiring.

We crossed the river at Howell's Ferry, and took post at Motte's plantation. Here I got intelligence that the enemy had halted at Eutaw Springs, about forty miles below us; and that they had a reenforcement, and were making preparations to establish a permanent post there. To prevent this, I was determined rather to hazard an action, notwithstanding our numbers were greatly inferior to theirs. On the 5th we began our march, our baggage and stores having been ordered to Howell's Ferry under a proper guard. We moved by slow and easy marches, as well to disguise our real intention, as to give General Marion an opportunity to join us, who had been detached for the support of Colonel Harden, a report of which I transmitted in my letter of the 5th, dated Maybrick's Creek. General Marion joined us on the evening of the 7th, at Burdell's plantation, seven miles from the enemy's camp.

We made the following disposition, and marched at four o'clock the next morning to attack the enemy. Our front line was composed of four small battalions of militia, two of North and two of South Carolinians; one of the South Carolinians was under the immediate command of General Marion, and was posted on the right, who also commanded the front line; the two North Carolina battalions, under the command of Colonel Malmedy, were posted in the centre; and the other South Carolina battalion, under the command of General Pickens, was posted on the left. Our second line consisted of three small brigades of Continental troops—one from North Carolina, one from Virgina, and one from Maryland. The North Carolinians were formed into three battalions, under the command of Lieutenant-Colonel Ash, Majors Armstrong and Blount; the whole commanded by General Sumner, and posted upon the right. The Virginians consisted of two battalions, commanded by Major Snead and Captain Edmonds, and the whole by Lieutenant-Colonel Campbell, and posted in the centre. The Marylanders also consisted of two battalions, commanded by Lieutenant-Colonel Howard and Major Hardman, and the brigade by Colonel Williams, deputy adjutant-general to the army, and were posted upon the left. Lieutenant-Colonel Lee, with his Legion, covered our right flank; and Lieutenant-Colonel Henderson with the State troops, commanded by Lieutenant-Colonels Hampton, Middleton, and Polk, our left. Lieutenant-Colonel Washington with his horse, and the Delaware troops under Captain Kirkwood, formed a corps de reserve. Two three-pounders under Captain-Lieutenant Gains, advanced with the front line, and two sixes under Captain Browne, with the second.

The Legion and State troops formed our advance, and were to retire upon the flanks upon the enemy's forming. In this order we moved on to the attack. The Legion and State troops fell in with a party of the enemy's horse and foot, about four miles from their camp, who, mistaking our people for a party of militia, charged them briskly, but were soon convinced of their mistake by the reception they met with. The infantry of the State troops kept up a heavy fire, and the Legion in front, under Captain Rudolph charged them with fixed bayonets; they fled on all sides, leaving four or five dead on the ground, and several more wounded. As this was supposed to be the advance of the British army, our front line was ordered to form and move on briskly in line, the Legion and State troops to take their position upon the flanks. All the country is covered with timber from the place the action began to the Eutaw Springs.

The firing began again between two and three miles from the British camp. The militia were ordered to keep advancing as they fired. The enemy's advanced parties were soon driven in, and a most tremendous fire began on both sides from right to left, and the Legion and State troops were closely engaged. Generial Marion, Colonel Malmedy, and General Pickens conducted the troops with great gallantry and good conduct; and the militia fought with a degree of spirit and firmness that reflects the highest honor upon that class of soldiers.

But the enemy's fire being greatly superior to ours and continuing to advance, the militia began to give ground. The North Carolina brigade, under General Sumner, was ordered up to their support. There were all new levies, and had been under discipline but little more than a month; nothwithstanding which they fought with a degree of obstinacy that would do honor to the best of veterans; and I could hardly tell which to admire most, the gallantry of the officers or the bravery of the troops.

They kept up a heavy and well-directed fire, and the enemy returned it with equal spirit, for they really fought worthy of a better cause, and great execution was done on both sides. In this stage of the action, the Virginians under Lieutenant-Colonel Campbell, and the Marylanders under Colonel Williams, were led on a brisk charge, with trailed arms, through a heavy cannonade and a shower of musket-balls.

Nothing could exceed the gallantry and firmness of both officers and soldiers upon this occasion. They preserved their order, and pressed on with such unshaken resolution that they bore down all before them. The enemy were routed in all quarters. Lieutenant-Colonel Lee had, with great address, gallantry, and good conduct, turned the enemy's left flank, and was charging them in rear at the same time the Virginia and Maryland troops were charging them in front.

A most valuable officer, Lieutenant-Colonel Henderson, got wounded early in the action; and Lieutenant-Colonel Hampton, who commanded the State cavalry, and who fortunately succeeded Lieutenant-Colonel Henderson in command, charged a party of the enemy, and took upward of one hundred prisoners. Lieutenant-Colonel Washington brought up the corps de reserve upon the left, where the enemy seemed disposed to make further resistance; and charged them so briskly with the cavalry and Captain Kirkwood's infantry, as gave them no time to rally or form.

Lieutenant-Colonels Polk and Middleton, who commanded the State infantry, were no less conspicuous for their good conduct than for their intrepidity; and the troops under their command gave a specimen of what may be expected from men, naturally brave, when improved by proper discipline. Captain-Lieutenant Gaines, who commanded the three-pounders with the front line, did great execution until his pieces were dismounted. We kept close at the enemy's heels after they broke, until we got into their camp, and a great number of prisoners were continually falling into our hands, and some hundreds of the fugitives ran off toward Charleston.

But a party threw themselves into a large three-story brick house, which stands near the spring; other took post in a picketed garden, while others were lodged in an impenetrable thicket, consisting of a cragged shrub, called a black jack. Thus secured in front, and upon the right by the house and a deep ravine, upon the left by the picketed garden and in the impenetrable shrubs, and the rear also being secured by the springs and deep hollow ways, the enemy renewed the action. Every exertion was made to dislodge them.

Lieutenant Colonel Washington made most astonishing efforts to get through the thicket to charge the enemy in the rear; but found it impracticable, had his horse shot under him, and was wounded and taken prisoner. Four six-pounders were ordered up before the house—two of our own, and two of the enemy's, which they had abandoned—and they were pushed on so much under the command of the fire from the house and the party in the thicket, as to render it impracticable to bring them off again when the troops were ordered to retire.

Never were pieces better served; most of the men and officers were either killed or wounded. Washington failing in his charge upon the left, and the Legion baffled in an attempt upon the right, and finding our infantry galled by the fire of the enemy, and our ammunition mostly consumed, though both officers and men continued to exhibit uncommon acts of heroism, I thought proper to retire out of the fire of the house, and draw up the troops at a little distance in the woods; not thinking it advisable to push our advantages further, being persuaded the enemy could not hold the post many hours, and that our chance to attack them on the retreat was better than a second attempt to dislodge them, in which, if we succeeded, it must be attended with considerable loss.

We collected all our wounded, except such as were under the command of the fire of the house, and retired to the ground from which we marched in the morning, there being no water nearer, and the troops ready to faint with the heat, and want of refreshment, the action having continued near four hours. I left on the field of action a strong picket, and early in the morning detached General Marion and Lieutenant Colonel Lee with the Legion horse between Eutaw and Charleston, to prevent any re-enforcements from coming to the relief of the enemy; and also to retard their march, should they attempt to retire, and give them to the army to fall upon their rear and put a finishing stroke to our success.

We left two pieces of our artillery in the hands of the enemy, and brought off one of theirs. On the evening of the 9th, the enemy retired leaving upward of seventy of their wounded behind them, and not less than one thousand stand of arms that were picked up on the field, and found broken and concealed in the Eutaw Springs. They stove between twenty and thirty puncheons of rum, and destroyed a great variety of other stores, which they had not carriages to carry off. We pursued them the moment we got intelligence of their retiring. But they formed a junction with Major McArthur at this place, General Marion and Lieutenant Colonel Lee not having a force sufficient to prevent it: but on our approach they retired to the neighborhood of Charleston.

We have taken five hundred prisoners, including the wounded the enemy left behind; and I think they cannot have suffered less than six hundred more in killed and wounded. The fugitives that fled from the field of battle spread such an alarm that the enemy burned their stores at Dorchester, and abandoned the post at Fair Lawn; and a great number of negroes and others were employed in felling trees across the road for some miles without the gates of Charleston. Nothing but the brick house, and the peculiar strength of the position at Eutaw, saved the remains of the British army from being all made prisoners.

We pursued them as far as this place; but not being able to overtake them, we shall

halt a day or two to refresh, and then take our old position on the High Hills of Santee. I think myself principally indebted for the victory we obtained to the free use of the bayonet made by the Virginians and Marylanders, the infantry of the Legion, and Captain Kirkwood's light infantry; and though few armies ever exhibited equal bravery with ours in general, yet the conduct and intrepidity of these corps were peculiarly conspicuous. Lieutenant Colonel Campbell fell as he was leading his troops to the charge, and though he fell with distinguished marks of honor, yet his loss is much to be regretted: he was the great soldier and the firm patriot.

Our loss in officers is considerable, more from their value than their number; for never did either men or officers offer their blood more willingly in the service of their country. I cannot help acknowledging my obligations to Colonel Williams for his great activity on this and many other occasions in forming the army, and for his uncommon intrepidity in leading on the Maryland troops to the charge, which exceeded any thing I ever saw. I also feel myself greatly indebted to Captains Pierce and Pendleton, Major Hyrne and Captain Shubrick, my aids-de-camp, for their activity and good conduct throughout the whole of the action.

This dispatch will be handed to your excellency by Captain Pierce, to whom I beg leave to refer you for further particulars.

I have the honor to, &c.,

NATH. GREENE.

A CONCURRENT RESOLUTION

Expressing support of the South Carolina General Assembly for the development of a Eutaw Springs National Battlefield and to memorialize the Congress of the United States to enact such legislation

Whereas, the Battle of Eutaw Springs, September 8, 1781, was one of the hardest fought battles of the American Revolution; and

Whereas, the Battle of Eutaw Springs was one of the six battles of the Revolution in which the Continental Congress awarded a medal in honor of the victory, the others being: Washington Before Boston, 1776; Saratoga, 1777; Stoney Point, 1779; Paulus Hook, 1779; and Cowpens, 1781; and

Whereas, in 1972 the Congress of the United States passed legislation creating the Cowpens National Battlefield which was signed into law by President Richard M. Nixon; and

Whereas, the Battle of Eutaw Springs was the climax of Major General Nathanael Greene's brilliant campaign to free the South from British tyranny, the British retreated from the battlefield to Charleston the day after the battle; and

Whereas, the presentation of the Eutaw Springs Medal and Battle Flag to General Greene by Henry Laurens in behalf of the Continental Congress is one of the six panels of history on the bronze doors of the United States House of Representatives which were cast in 1902; and

Whereas, President John Adams stated that history would record that the importance of Eutaw Springs was equal to Yorktown; and

Whereas, both the American and British forces fought with great gallantry at Eutaw Springs, the British Forces, which numbered some two thousand, suffered forty percent casualties, a percentage unequaled by them in any other major battle except Bunker Hill which was fifty-two percent. The American Forces which consisted of approximately twenty-four hundred suffered twenty percent in casualties; and

Whereas, the total number of casualties at Eutaw Springs exceeded the number at the Battle of Yorktown; and

Whereas, a close scrutiny of the American soldiers at Eutaw Springs will reveal that they were experienced, courageous and patriotic. Greene's Army consisted of continentals and militia. They were soldiers who fought with great gallantry, men who served their country with distinction in war and in peace; and

Whereas, many legendary heroes of the nation fought at Eutaw Springs including native sons from at least eight of the thirteen states, future Governors of Virginia, Maryland, and Kentucky, and future Congressmen from Georgia, South Carolina, North Carolina, Virginia, Maryland, and Kentucky; and

Whereas, among the numerous heroes of the battle were:

Rhode Island—Major General Nathanael Greene, the fighting Quaker, next to General George Washington the greatest General officer of the Revolution, counties in fourteen states honor his memory.

Delaware—Captain Kirkwood, the finest company commander of the war, a member of the "Blue Hens Chickens", Delaware's Continental Line.

Maryland—Lt. Colonel John Eager Howard, awarded a medal for Cowpens, a great soldier, later a Governor and United States Senator from Maryland, referred to in "Maryland, My Maryland", the Maryland State Song, counties in six states honor his memory, General Otho H. Williams, another great soldier of the Maryland Line; and General Greene's black orderly, a free man from Maryland who gave his life for his country in the battle. General Greene specifically cited him for his courage and gallantry.

Virginia—Lt. Colonel Henry Lee, Commander of Lee Legion, awarded a medal for the Battle of Paulus Hook, New Jersey, later Governor of Virginia and Congressman, Father of General Robert E. Lee.

North Carolina—members of the North Carolina Militia and the members of the North Carolina Continental Line under General Jethro Sumner served with great gallantry. Their number was greater than the troops of any other state. John B. Ashe, a major with General Sumner's Command later served in Congress from North Carolina.

South Carolina—The South Carolina Militia, the forces of General Francis Marion, General Thomas Sumter and General Andrew Pickens served and fought with great distinction in the battle. Sumter, "the Gamecock", was unable to be present, but many of his men fought under the famous Colonel Wade Hampton I, later a member of Congress from South Carolina and a General in the War 1812. Francis Marion, "the Swamp Fox", is a legend of the American people. Seventeen states have a county named in his honor, a number exceeded only by General Washington of the American military heroes and the Revolution. General Andrew Pickens, a native of Pennsylvania, later served as a member of Congress from South Carolina. Three states have a county that honors his memory. Colonel William Washington, a native of Virginia and recipient of a medal for Cowpens was conspicuous with his bravery. The flag of his troop, "The Eutaw Flag", is held in trust by the Washington Light Infantry of Charleston, South Carolina. "Carolina", the South Carolina State Song, by Henry Timrod mentions the heroes of Eutaw Springs.

Georgia—Colonel Samuel Hammond served in the Battle of Eutaw Springs and throughout the Revolution with distinction. After the Revolution he served as a General in the Georgia Militia and represented Georgia in Congress.

Missouri—Colonel Samuel Hammond while a member of Congress from Georgia was appointed by President Thomas Jefferson, the first civil and military officer for the upper Louisiana Territory, later called the Missouri Territory. Colonel Hammond in 1820 was elected the first president of the Territorial Council of Missouri.

Kentucky—Lt. John Adair, a member of Sumter's command, fought at Eutaw Springs, served in the South Carolina Legislature and moved to Kentucky as a young man. He became a member of Congress from Kentucky as United States Senator and a Major General in the War of 1812 who fought at the Battle of the Thames in Canada and commanded the Kentucky Volunteers in the Battle of New Orleans. In 1820 he was elected Governor of Kentucky.

France—Count Malmedy of France offered his services to the American cause. In the Battle of Eutaw Springs he commanded the North Carolina Militia.

Poland—Count Thadius Kosciusko, the Engineer for Green's army, was one of the great heroes of the Revolution. A Polish patriot he fought for the cause of American independence and when victory was achieved he returned to his native land to fight to free it from its conquerors. A county in Indiana commemorates his memory; and

Whereas, of the ten men who received medals from the Continental Congress for their leadership in battle, four fought at Eutaw Springs: General Nathanael Greene, Colonel John Eager Howard, Colonel William Washington and Lt. Colonel Henry Lee; and

Whereas, forty-five counties in twenty states commemorate heroes of the Battle of Eutaw Springs, the states being: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, New York, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Texas, West Virginia and Maryland; and

Whereas, the gallant courage of the men who fought at Eutaw Springs is part of our noble heritage, part of the heart and sinew of our nation; and

Whereas, the South Carolina Bicentennial Commission of the American Revolution, has passed a resolution supporting the development of a Eutaw Springs National Battlefield; and

Whereas, most of the battlefield of Eutaw Springs is open country near the Santee by Lake Marion, named in honor of the famous Swamp Fox, General Francis Marion. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the General Assembly of South Carolina does hereby express its support for federal legislation providing for a Eutaw Springs National Battlefield and it does respectfully request South Carolina's Congressional Delegation to work for the implementation of such legislation.

Be it further memorialized that the Congress of the United States enact legislation providing for the Eutaw Springs National Battlefield in honor of the patriots who gave their lives in the battle and in memory of all of those who by their service and sacrifice helped win our independence as a nation and our rights as a free people.

Be it further *resolved* that a copy of this resolution be sent to President Richard M. Nixon; Vice President Spiro Agnew; Speaker of the United States House of Representatives, Carl Albert; the members of the South Carolina Congressional Delegation; and the members of the National Advisory Council on Historic Preservation.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 2026

At the request of Mr. RIBICOFF, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2020, a bill to provide optometric coverage under part B medicare payments.

S. 2250

At the request of Mr. MONDALE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2250, the Family Research Act.

S. 2332

At the request of Mr. STAFFORD, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2332, to amend the Rehabilitation Act of 1973.

S. 2475

At the request of Mr. CURTIS, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 2475, to amend the Internal Revenue Code of 1954.

S. 2631

At the request of Mr. MCINTYRE, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 2631, the National Consumer Cooperative Bank Act.

S. 2853

At the request of Mr. HELMS, the Senator from Montana (Mr. MANSFIELD) was added as a cosponsor of S. 2853, a bill to amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors.

S. 2913

At the request of Mr. RIBICOFF, the Senator from New Jersey (Mr. CASE), the Senator from Vermont (Mr. LEAHY), the Senator from Tennessee (Mr. BROCK), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), and the Senator from Maryland (Mr. BEALL) were added as cosponsors of S. 2913 to establish a National Center for Women, and for other purposes.

S. 2939

At the request of Mr. SCHWEIKER, the Senator from Kentucky (Mr. FORD), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 2939, to provide a special program for financial assistance to Opportunities Industrialization Centers.

S. 3079

At the request of Mr. THURMOND, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 3079, a bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes.

S. 3138

At the request of Mr. RIBICOFF, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 3138, a bill to deny certain benefits to taxpayers who participate in or cooperate with the boycott of Israel.

S. 3145

At the request of Mr. METCALF, on behalf of Mr. JACKSON, the Senator from New Mexico (Mr. MONTOYA), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 3145, the Energy Conservation Research and Development Act of 1976.

S. 3170

At the request of Mr. STEVENSON, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3170, a bill to extend and modify provisions relating to Federal expenditures to correct or compensate for structural defects present in homes purchased with federally insured mortgages.

SENATE RESOLUTION 425—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself and Mr. GOLDWATER) submitted the following resolution:

S. RES. 425

Resolved, That the Standing Rules of the Senate Rule 25.1(a)(1) shall be amended by striking therefrom the words "Committee on Aeronautical and Space Sciences" and inserting in lieu thereof "Committee on Science and Technology", and be it also resolved that Rule 25.2 of the Standing Rules of the Senate shall be amended by striking therefrom the words "Aeronautical and Space Sciences" and inserting in lieu thereof "Science and Technology". Be it further resolved that Rule 16.6(a) shall be amended by striking therefrom the words "Committee on Aeronautical and Space Sciences" and inserting in lieu thereof "Committee on Science and Technology".

SENATE RESOLUTION 426—ORIGINAL RESOLUTION REPORTED RELATING TO CONSIDERATION OF CONFERENCE REPORT ON FEDERAL-AID HIGHWAY ACT OF 1976

(Referred to the Committee on the Budget.)

Mr. BENTSEN, from the Committee on Public Works, reported the following resolution:

S. RES. 426

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the conference report to accompany H.R. 8235, the Federal-Aid Highway Act of 1976. Such waiver is necessary for the Senate to complete action on legislation which provides spending authority for the Federal-aid highway program, the transition quarter, and fiscal years 1977 and 1978. The total new spending authority provided for this period by the conference report is $3.8 billion, only $0.2 billion more than was provided by the original Senate bill, S. 2711. This new spending authority is sufficient to allow the States to continue highway development at reasonable levels, and is consistent with projected revenues to the Highway Trust Fund.

SENATE RESOLUTION 429—SUBMISSION OF A RESOLUTION RELATING TO THE PRESIDENT'S PROPOSAL TO REFORM THE FOOD STAMP PROGRAM BY REGULATION

(Referred to the Committee on Agriculture and Forestry.)

Mr. McGOVERN (for himself, Mr. DOLE, and Mr. TALMADGE) submitted the following resolution:

S. RES. 429

Resolved,

Whereas the purpose of the Food Stamp Act is to provide needy Americans access to nutritional adequacy and not intended to provide federal food assistance to households that are not currently needy;

Whereas the Senate on February 5, 1975, adopted S. Res. 58 directing the Department of Agriculture to study the Food Stamp Program and submit legislative recommendations not later than June 30, 1975;

Whereas the President did not submit to Congress substantive legislative proposals to reform the Food Stamp Program until October 20, 1975;

Whereas only four months thereafter the President proposed regulation changes that would implement his proposals before Congress had a reasonable opportunity to complete its legislative deliberations, possibly creating statutory authority for some or all of these changes;

Whereas the Senate Committee on Agriculture and Forestry has held two weeks of hearings on the various reform proposals before the Congress and has reported a bill to the United States Senate;

Whereas the United States Senate has modified and passed the food stamp legislative reform bill reported by the Senate Committee on Agriculture and Forestry;

Whereas sweeping changes in the Food Stamp Program are best made through the legislative process if they are to withstand legal challenges in the courts; and

Whereas the Administration's reform proposal, if implemented as submitted to Congress, would reduce benefits to, or eliminate from the Food Stamp Program, millions of Americans, including persons recently unemployed: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) The goal of the Food Stamp Program, as stated in the Act authorizing the program, to provide low-income households with the opportunity to purchase a nutritionally adequate diet, represents sound public policy and should not be thwarted by the precipitous administrative action proposed by the Agriculture Department.

(2) The President's action on February 19, 1976, in directing the Secretary of Agriculture without Congressional authorization to issue amendments to the regulations governing the Food Stamp Program to significantly alter the program when Congress is actively considering amendments to the Food Stamp Act, is untimely and could jeopardize the chances of achieving the passage of meaningful legislation to eliminate abuses and improve the administration of the program; and

(3) The issuance of any amendments to the regulations governing the Food Stamp Program that significantly alter the program and otherwise affect the present eligibility of participants would be unwise and contrary to the public interest.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States.

SENATE CONCURRENT RESOLUTION 110—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING AS A SENATE DOCUMENT OF "SOVIET SPACE PROGRAMS, 1971–1975"

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself and Mr. GOLD-

WATER) submitted the following concurrent resolution:

SENATE CONCURRENT RESOLUTION 110

Resolved by the Senate (the House of Representatives concurring), That the study entitled "Soviet Space Programs, 1971–1975," Volumes 1 and 2, prepared for the use of the Senate Committee on Aeronautical and Space Sciences by the Congressional Research Service with the cooperation of the Law Library, Library of Congress, be printed with illustrations as a Senate document, and that there be printed two thousand five hundred additional copies of such document for use of that committee.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM ACT OF 1975—H.R. 10612

AMENDMENT NO. 1578

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

Mr. FONG. Mr. President, I am submitting today an amendment, No. 1578, to the tax reform bill, H.R. 10612, which has been passed by the House of Representatives, and is now under consideration by the Committee on Finance. Adoption of the amendment would implement improvements in the retirement income tax credit of the Federal income tax law, as I first proposed in S. 2402, which I introduced September 24, 1975, and which was cosponsored by Senators BILL BROCK, JAMES L. BUCKLEY, and J. BENNETT JOHNSTON.

The amendment would extend to retirees of other retirement systems the same tax break now enjoyed by persons receiving tax-free social security benefits.

Under H.R. 10612, as passed by the House of Representatives, the maximum amounts subject to the retirement income tax credit would be raised from $1,524 for an individual and $2,286 for a couple to $2,500 and $3,750, respectively. This increase in the base income subject to the credit is the same as I proposed early in 1973. Subsequent review and economic changes which have taken place since then have convinced me, however, that what appeared to be an adequate retirement income tax credit adjustment in 1973 is not enough in 1976. It will be even less adequate in 1977 or years to follow.

My amendment would apply the credit to the same income level as the maximum social security retirement benefit as certified each year by the Secretary of Health, Education, and Welfare.

Its immediate effect would be to raise the income subject to the retirement income tax credit to approximately $4,368 for an individual and $6,552 for a couple. The amount would be adjusted in the future as social security maximum retirement benefits increase so that the originally intended parity would be maintained on a constant basis.

I am strongly persuaded that such a permanent—and automatic—updating of the retirement income tax credit provision of the law is necessary, because of the poor record we have had in the 14 years since the credit was last updated. Our failure to make changes has often worked a severe hardship on the many persons whose retirement income includes no social security payments, or whose social security benefits have been so low as to be of minor importance to them.

The people who would benefit from an updated tax credit include Federal retirees, and their survivor annuitants. But it would also help many State and local government retirees and nonprofit association retirees who are not covered by social security. The latter groups include teachers, police officers, firefighters, some clergymen, and a number of other public servants.

At a recent hearing of the Senate Special Committee on Aging in Chicago, for example, it was reported that there are now over 35,000 teacher retirees in Illinois who do not, as such, have social security. Since their retirement income has no adjustment for cost of living, an updated retirement income credit can be doubly important to them.

With possible continuation of high inflation rates, the annual automatic adjustment in the income subject to the retirement tax credit becomes most important. Failure to include such a mechanism in any change in the law invites the prospect of inequities in the future comparable to those which now exist, because of our failure to act during the past dozen years.

As a matter of fact, updating of the retirement income tax credit to any specific dollar amount—even if appropriate when introduced—is almost certain to be out of date by the time it is enacted and takes effect.

In previous sessions of Congress, I have introduced a number of bills to update the retirement income tax credit—as have other Members. In each case I have tried to bring the tax credit fully into line with the tax-free status of social security retirement benefits. This is also the purpose of my amendment, but with a significant difference. By permanently tying the tax credit to the maximum social security benefit as certified each year by the Secretary of Health, Education, and Welfare, it would also assure that parity is maintained in the future.

SUPERVISORY AUTHORITY OF FEDERAL BANKING AGENCIES—S. 2304

AMENDMENT NO. 1579

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. TOWER. Mr. President, the issue of "problem banks" has received a great deal of attention in recent months. Most of the attention has been focused on the role which the three bank regulatory agencies play in preventing banks from being placed on the so-called problem list and preventing those banks from possible failure.

The issue is obviously a controversial one. On the one hand, there are those who feel that it can be dealt with by consolidating all three agencies into a single regulatory body. On the other hand, there are those of us who are concerned that such a consolidation would result in an undue concentration of regulatory power over our Nation's banking system. It is not at all clear to me that consolidating the agencies would eliminate problem banks or bank failures.

While there is disagreement over the consolidation issue, there is rather widespread agreement that the powers of the three regulatory agencies could be improved to allow them to effectively deal with certain types of problem situations. Last year, the three bank regulatory agencies asked for new legislation to give them additional powers in dealing with problem situations. I cosponsored this legislation, along with Senator PROXMIRE, by request. That legislation (S. 2304) has been the subject of hearings in the Committee on Banking, Housing and Urban Affairs. It will undoubtedly be considered in committee markup in the near future.

S. 2304 would strengthen the hand of the regulatory agencies in removing officers and directors of banks where the safety and soundness of the bank are involved. It would prohibit insider transactions to directors and officers, allow civil penalties to be imposed for violations of cease-and-desist orders, and permit the Federal Reserve to require a bank to divest itself of its nonbanking subsidiaries in cases where there is a severe risk to the holding company's banking subsidiary.

There is rather widespread and general agreement that such legislation woudl be useful. At the same time, there is general agreement that the principle of due process should not be ignored, nor the rights of individuals disregarded.

Recently, a constituent of mine, Michael E. Burns, of Houston, wrote to the regulatory agencies expressing his concerns in this important matter. I am introducing today, by request, an amendment to S. 2304 which addresses the shortcomings which Mr. Burns sees in that bill. I am hopeful that it will be a useful focal point for further discussion on this matter.

I ask that Mr. Burns' correspondence be printed in full at this point in the RECORD and that the amendment containing Mr. Burns' recommendations also be printed in the RECORD.

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

BRAGEWELL & PATTERSON,
Houston, March 26, 1976.

Hon. ROBERT E. BARNETT,
Chairman, Federal Deposit Insurance Corporation, Washington, D.C.
Hon. ARTHUR F. BURNS,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.
Hon. JAMES E. SMITH,
Comptroller of the Currency, Washington, D.C.

DEAR SIRS: The three federal bank regulatory agencies have recently recommended to Congress legislation increasing their regulatory powers over "problem bank" situations, which has been introduced as S. 2304 in the Senate and H.R. 9743 in the House of Representatives ("Bill"). Among the subjects addressed in the Bill is the removal power, which is set forth in Section 8 of the Federal Deposit Insurance Act, 12 U.S.C. § 1818 ("§ 1818"). Because of our firm's experience with a case where the suspension and removal provisions of § 1818 have worked an undue, and we believe, unjustified penalty against the individual involved, it is our judgment that certain changes in both the

existing law and in the Bill would be desirable from a public policy standpoint.

The purpose of this letter is to outline our proposed changes and to set forth our rationale for the desirability of their incorporation in the agencies' proposal.

We should note at the outset that the merits of the changes we recommend are not based solely upon our own concern about the inappropriateness of the existing law in its application in the specific situation mentioned, but also upon the fact that the existing law denies due process in certain respects to anyone to whom it is applied. In its present form, § 1818 contains excessively arbitrary powers to terminate a banker's career, which we believe are harsher than needed in order to properly police the industry. The relevant portion of the new bill would only increase the degree of arbitrary authority conferred and increase the likelihood in the future of the termination of careers of some bankers who do not in fact lack integrity or pose any threat to a bank, and yet who have in some personal way found disfavor with the regulatory authorities, or who may have been involved in a technical crime or other transgression of public policy which was neither intentional nor based on bad faith conduct.

In order for the significance of the amendments we are suggesting to be clear, it will be important first to define and explain the defects in the existing law. There are three relevant provisions in the existing law: the suspension provision of 12 U.S.C. § 1818(g)(1); the removal provision of 12 U.S.C. § 1818(e); and the closely related employment provision of 12 U.S.C. § 1829. Each will be considered in turn, and then the Bill itself will be addressed.

1. 12 U.S.C. § 1818(g)(1) Suspension.

The present suspension provision, 12 U.S.C. § 1818(g)(1) ("§ 1818(g)(1)"), applies to situations where any bank officer, director, or person participating in the bank's affairs is indicted for or convicted of a felony involving dishonesty or breach of trust. In such an event, the regulatory agency having primary jurisdiction for the supervision of the bank is authorized at its discretion to suspend such an individual from office and/or to prohibit him from further participation in the bank's affairs. If such an order ("notice") is based upon an indictment, it will necessarily expire at such time as the indictment is disposed of other than by conviction; if the indictment results in a conviction, a permanent order may be issued at the discretion of the agency. Both such orders are expressly withdrawn from the process of judicial review by 12 U.S.C. § 1818(i) ("§ 1818(i)").

The defects of this particular provision are glaring. It does not provide any explicit rationale as to why mere indictment or conviction should cause a banker to forfeit his career. We can all understand the basic governmental concern that a person who is indicted for or convicted of a crime involving dishonesty may be more likely to be a threat to the safety of a bank than one who has not, but no such rationale is set forth in the statute and the agency is not obliged to make any findings of a probable threat or undue risk to a bank in the individual case.

Practical experience, however, should serve to teach us that there will occasionally be individuals who will be charged with crimes of dishonesty or breach of trust who are essentially not guilty of any bad faith or dishonest action. They may be simply victims of mistake, or of premature, erroneous charges brought before the evidence is properly assembled, or of novel theories of criminal conduct making previously innocent conduct illegal, and so forth. The problem with an arbitrary suspension provision with no hearing or finding process is that it will lump together without distinction all types of cases and that it will fail to offer due process to anyone who may be affected by the suspension process.

The statute does make the order discretionary with the agency so that each agency could voluntarily choose to provide a hearing and substantive finding process, although that would not cure the further substantive defect of the absence of judicial review. Until recently, the agencies have in practice, we understand, refused to offer a hearing and finding process, and have routinely issued suspension orders upon notice of a relevant indictment or conviction. The courts have, in their turn, until recently also sustained the constitutionality of judicial withdrawal provisions generally and of this statute (or its counterpart in the National Housing Act) in particular, primarily on the theory that the Constitution permits Congress to define the jurisdiction of the lower courts.[1]

However, these postures may be in the process of change at this time. In a recent case in the U.S. Court of Appeals for the District of Columbia, *Feinberg* v. *F.D.I.C.*, 522 F. 2d 1335 (1975), the court indicated that the withdrawal provision of the statute and the summary nature of the suspension power were at least suspect as being unconstitutional by virtue of the apparent deprivation of the property and occupational rights of an affected individual without any modicum of procedural due process. The regulatory agencies have each, in at least one recent situation involving an indictment and the § 1818(g)(1) suspension provision, agreed to hold an informal hearing upon the request of the affected party, undoubtedly because of their own suspicions as to the validity of the summary procedure and of the statute itself.

The Feinberg case has resulted in an order convening a three-judge court to review the constitutionality of the relevant provisions of the statute (§ 1818(g)(1) and § 1818(i)) in spite of the express prohibition of the judicial withdrawal provision (§ 1818(i)). Hence, the defects in the statute are coming under review and hopefully will continue to face further remedial action, even without the intervention of Congress. Yet the defects are so serious as not to be curable in practicality by other than a rewriting of the statute by Congress or its ultimate invalidation by the courts. Fundamental due process cannot fairly be left totally to the agencies' discretion, and the agencies and Congress, we submit, should undertake to restructure a patently unconstitutional act without awaiting judicial confirmation of its unconstitutionality.

2. 12 U.S.C. § 1818(e) Removal.

The existing removal law provides that the banking agencies may initiate removal actions when they know or suspect that an individual associated with a bank has committed or is committing a violation of law, rule, regulation, or cease-and-desist order, or has engaged or is engaging in an unsafe or unsound banking practice, or has breached his fiduciary duty to a bank, or has damaged or is damaging a bank or any other business firm, and that such conduct involved or involves personal dishonesty. While it allows an agency to initiate an immediate interim removal order ("notice"), such an order is appealable to a court within ten days for a review of its merits. If a final order is ultimately issued by the agency after a hearing, that order is also judicially reviewable.

Unlike the summary procedure of the suspension provision, the removal provision does provide for an internal hearing and finding process, and for an external review by a judicial body which is expert in administering injunctive law and cognizant of the many equity considerations and risk-of-injury factors that should go into the removal order decision.

However, the removal law does not explicitly provide for the most essential test to be applied to any removal or suspension order decision: is the person in fact a threat to the bank? The law assumes that anyone who can be found to have violated some public policy or to have damaged a bank or any other form of business through a purportedly dishonest act is per se a threat to banking and should be removable on those facts alone. However, the agency should not be allowed to rely totally upon such findings in determining whether to issue a removal order. There can be situations where individuals may have inadvertently transgressed public policy in some regard or injured a business in a manner which, depending upon how one chooses to interpret the motivations of those involved, can be claimed to be dishonest, but they may nonetheless not in fact constitute threats to banks in the nature of having predilections toward dishonest conduct or of generating adverse public opinion. The agencies should be required to make a finding that such individuals do in fact constitute threats to the banks involved before issuing removal orders.

Under a revised statute that required such a determination, the existence of any actual intentional fraud and corruption would usually be fully evident in most cases and a finding of undue risk to any bank involved would be sustainable.

In those cases where such a finding would not be justified, however, primarily because the alleged dishonest act was in fact of an inadvertent or technical nature, and the individual appears to be evidently not of a corrupt nature, either the agencies or the courts would then presumably refuse to implement a removal order.

3. 12 U.S.C. § 1829 Employment.

The existing law regarding the employment in insured banks of persons convicted of criminal offenses (felony or misdemeanor) states that if the crime involved in a particular case is one involving dishonesty or breach of trust, the individual concerned may not serve as a director, officer, or other employee of an insured bank, without the consent of the FDIC.

There is no hearing nor are there any substantive criteria provided for in this statute. Presumably, if the FDIC attempted to implement the $100-a-day civil penalty provided in the statute, or attempted to obtain an injunction against a particular offender, the due process issue could be taken to court nonetheless, and a review of the justification for the refused permission then rendered. However, the statute lacks an explicit statement of the substantive criteria for granting or denying such permission. We would suggest that the primary criterion here, as with the suspension and removal provisions, should logically be whether there is a significant potential threat to the safety and soundness of the bank in question. There are numerous other risk and equity factors that should enter into the picture, which are outlined later in this letter under the subject of suggested modifications of this and other laws in question.

Without a hearing or substantive finding criteria provided for by statute, the future of the individual concerned is left solely to the discretion of the agency, subject to possible judicial imposition of due process standards in a litigated case. While Congress here and in the suspension statute has obviously tried to convey extreme discretion to the agencies to make practical and unfettered decisions in this area, it does not appear to be an untoward imposition for some substantive standards to be included in the statutes, and for some administrative hearing to be

[1] *Hykel* v. *FSLIC*, 317 F. Supp. 332 (E.D. Pa., 1970); *Clark* v. *Gabriel*, 393 U.S. 256, 89 S. Ct. 424, 21 L. Ed. 2d 418 (1968); *Fein* v. *Selective Service System*, 405 U.S. 365, 92 S. Ct. 1062, 31 L. Ed. 2d 298 (1972).

held in which such standards can be tested of record. If an individual, convicted or not, clearly presents a risk to the banking system, such a conclusion would undoubtedly be borne out by the facts elicited at such a hearing. The hands of the agencies would still not be tied against dealing with malefactors, but those individuals who did not commit bad faith acts, or have criminal intent, or who may have been rehabilitated, or whatever else their meritorious claim may be, will at least have a reasonable opportunity, guaranteed by statute, for the presentation of their respective positions, before their careers are destroyed by administrative orders and decisions.

We understand that, at present, the FDIC does from time to time grant requests for hearings under this particular statute, but as to whether this is an automatic hearing in every instance by internal policy, or a discretionary one depending upon the circumstances of each case, we do not know. We would advocate that it should be a matter of right for an individual to be accorded such a hearing upon request, with an explicit right to judicial appeal as well. We know of no other civilian profession in which the government can in a discretionary action summarily terminate a citizen's career, or, as in this case, have the power to exercise such potent statutory discretion, without a record proceeding.

The FDIC, in its appellate brief in the *Feinberg* case, noted other circumstances where governmental authority to take summary action on the basis of a felony indictment alone, without a conviction, had been sustained by the courts. Such examples include the prohibition of firearm transportation or possession by a person under felony indictment, *United States* vs. *Brown*, 484 F. 2d 418 (5th Cir. 1973); the power of a state official to suspend a contractor from bidding on public contracts while under felony indictment, *Trap Rock Industries, Inc.* vs. *Kohl*, 284 R. 2d 161 (N.J.), *cert. denied*, 405 U.S. 1065 (1972); the suspension of a securities broker-dealer firm upon indictment of its principal officers, *Halsey Stuart & Co.* vs. *Public Service Commission*, 243 N.W. 458 (Wis. 1933); and the suspension of indicted police officers, *Kuzewski* vs. *Board of Fire and Police Commissioners*, 125 N.W. 2d 334 (Wis. 1963). The FDIC further noted the summary closure powers of the federal banking agencies in failing bank situations, *Fahey* vs. *Mallonee*, 332 U.S. 245 (1947). However, in each of these summary power situations, there is also present a hearing requirement, in order that a finding be made as to the appropriateness of the suspensory, prohibitory, or seizure action in question. These governmental actions are summary only in the sense that they do not involve the usual protracted litigation which might be required in ordinary governmental legal actions against another party. They are considerably less summary than the powers exercised under § 1829, § 1818(g)(1), and, to a lesser extent, § 1818(e). The degree of difference between the two types of cases is sufficient, we believe, to cause the first to be acceptable under the due process requirements of the Constitution and the second to be unacceptable.

We should make it clear that we have no reason to believe that the FDIC is not in fact exercising good faith in attempting to render a fair decision on anyone's request for a review under § 1829, whether a hearing is actually convened or not. We merely wish to point out the structural defects in the statute itself, which leave an affected individual uncertain of his rights in this area, and which leave the FDIC and the judiciary no explicit Congressional instructions or guidelines upon which to make decisions.

As to the existing law, then, there are defects generally of a due process nature which we believe merit correction by Congress. The three agencies have also recommended a Bill which amends one of these statutes, which Bill we also believe merits modification in the interest of assuring due process to those affected by this law.

The provisions of the agencies' Bill that concerns us are found in Section 6(d). That section would modify the removal statute, § 1818(e), to, among other things, establish two additional justifications for removal, once the preliminary elements of violations of law or unsafe and unsound practices, etc., have been determined to exist. These two justifications would be: "gross negligence in the operation or management of the bank," and "willful disregard for the safety and soundness of the bank." While the goal of these two provisions is admirable, i.e., driving out grossly negligent and unsafe managers from the banking system, the criteria for handling the decisions under these potent new powers are not adequately defined.

The simple dislike of a regulator for an individual banker or a personality conflict between examiner and banker could result in a charge of "gross negligence" or "willful disregard." Even if the charge is legitimately felt to be well founded by the regulator, an objective set of standards in the law implemented by an objective body might not so interpret the circumstances.

As a practical matter, the personnel of a regulatory body which is embroiled in any type of official or unofficial dispute with a banker, whether he has any meritorius grounds for his position or not, tend to rally around the agency's position, as one might expect. A regional official who is unhappy with a particular banker for justifiable, or, for extraneous or purely personal reasons, may consciously or unconsciously turn his examiners into a more hostile frame of mind toward that banker. The next step may be that examinations are suddenly very stringent and all of the examiner's tremendous discretionary power to make subjective judgment calls about credits and banking practices and "regulatory attitudes" becomes, however well-intentioned its use, a potential tool for punitive action against the perceived "bad actor" banker. Before the banker realizes what has happened, he has become a "grossly negligent" or "willfully disregardful" banker, subject to the toils of the removal statute, and possibly facing a bank board which may have been put in a hostile frame of mind toward him themselves by virtue of the regulatory criticism.

The point to be made here is that the terms "gross negligence" and "willful disregard" need greater definition to avoid their being used either as punitive tools or in any other fashion unfairly. One purpose of this letter is to set forth a means to place a proper restraint on the exercise of these powers.

To cure the deficiencies in the present law and in the agencies' bills, we would recommend several changes, as follows:

1. 12 U.S.C. § 1818(g)(1) Suspension.

The deficiencies in this provision, as described earlier, are that no meaningful substantive standards are set forth regarding the basis for suspension, no hearing or findings process is prescribed, and direct judicial review is proscribed. Congress apparently intended in creating this provision to give the agencies an emergency weapon to deal with felons or suspected felons, who were likely as a class to pose an undue threat to any given bank, either from the standpoint of dishonesty or adverse public opinion, or both. Congress apparently did not want to have the agencies' discretion in determining to which members of the class to apply this emergency power and when and how to use it, fettered by any substantive standards, administrative due process, or judicial "interference".

However, let us consider the actual fact situations that the agencies face in this area. Anyone who is convicted of a felony has normally been under indictment for some time, and if he is involved in banking the agencies already know of his situation before conviction. Even if there is an early nolo contendere disposition of the matter, some law enforcement agency would have been involved for some time in investigating the matter, and the usual circumstance would be that at least informally the relevant banking agencies would be informed of the situation. The banking agencies in practicality are usually aware of any background criminal investigation of a bank-related person, and they definitely are if the crime involves a bank. In fact, because of the very detailed knowledge of the local banking community, practices and personalities held by bank examiners and regional personnel, *they* normally would know of the actual or potential illicit conduct or criminal tendencies involving a bank-related person substantially before any formal criminal investigations are begun. In many cases, the regulators would have enough adverse informtaion on their own as to the malfeasance of such person and his dishonesty to proceed under the removal provision if they want him out of banking, without waiting for an indictment situation and the use of the suspension provision.

The fact, then, than an indictment or conviction should usually come as no surprise to the agencies means that the suspension provision's justification as an emergency provision is somewhat overstated. Putting aside for the moment the question of adverse public opinion and its potential effect on a bank, what the suspension provision really does is to save the agencies from having to go to the trouble of relying on the removal provision and thereby having to show, potentially to a court's satisfaction, abuse of a bank or other business entity involving both dishonesty and damage to the entity in question.

It would seem that the concerns of Congress relating to reassuring the public and to obtaining certainty of protection against an indicted or convicted banker, and the concern for assuring due process to any citizen, can each be met satisfactorily by instituting some of the conditions on the removal power in the suspension situation. Specifically, there is no reason not to follow the removal procedure of requiring an administrative hearing for the issuance of an order, albeit after the fact in some situations. An immediate order ("notice") could still be issued on the strength of an indictment before the proceeding on the intermediate order, but there should be a time limit of perhaps twenty-five days on such "notice" order, in view of its critical impact on the affected individual.

A hearing should be held within the first fifteen days after such an order issues, and a decision rendered as to the intermediate order within ten days. Also, there is no valid reason not to permit the individual to have access to judicial review for the intermediate order; it may be a convenience to the agencies not to have to justify their suspension orders in court, but convenience cannot be allowed to take precedence when vital rights of an individual are at stake.

As to substantive standards, it would not be unduly constraining on the agency to have to consider explicitly the fundamental question upon which the theory of the suspension provision is, or should be, based: is the individual in question truly a threat to the bank, from either the standpoint of dishonesty or adverse public opinion? The existing suspension provision arbitrarily assumes that all bankers indicted and convicted for felonies purportedly involving dishonesty are per se threats to a bank. In fact, many such persons will, no doubt, constitute such threats; but, there are and will continue to

be some who do not constitute such threats, who should have the opportunity to assert their sides of their respective cases.

Case law holds generally that injunctive sanctions cannot be levied against someone in lieu of, or as a punitive addition to, normal criminal sanctions.[2] To justify such a harsh administrative step as the deprivation of a person's career, therefore, there must be some underlying administrative reason in each case for the action, and it cannot legitimately be done simply as a "rider" to an indictment of a conviction. There is no sound reason not to require the agencies to consider explicitly the underlying administrative reason for the suspension in each case. The presumption that an indicted or convicted banker is a threat to a bank should be tested against the facts of the individual case, and the individual concerned should be given the opportunity to present his side of the case and to have access to review of the agency's decision by a court.

We would further suggest that because of the stringent nature of this power and of the related removal power, there is a need to bring into play the various tests used by the courts in handling requests for similar orders (injunctions) from the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934 (" '34 Act"). In that act, the SEC is empowered to seek injunctions against the securities-related activities of an individual, when it can demonstrate that the person has been engaging in or is about to engage in a violation of the securities laws.

In the exercise of judicial due-process perogatives, the courts have gradually glossed that injunctive power with a number of equity considerations and considerations for the risk of actual public injury involved in the continuation of the individual's securities activities. These factors are generally appropriate to consider in the exercise of the similar injunctive power by the banking agencies in the suspension and removal area. In summary fashion, those factors include:

1. The injunction should not be used as a penalty, but as a protective measure against impending, threatened violations of law.

2. If the SEC cannot demonstrate a current violation of the law or a definite violation about to occur, and is basing its attack on a past violation, it must satisfy the court that there exists a "reasonable likelihood" or "cognizable danger" that the defendant will commit statutory violations in the future.

3. The purpose of injunctive relief is to protect the public from future violations and the Court retains broad discretion in determining whether the likelihood of future violations is such that an injunction should issue for this purpose.

4. Was the past violation egregious, serious, willful, in bad faith?

5. How recent was it? How often was it repeated?

6. Was it harmful to the (investing) public?

7. Is it likely to be repeated?

8. Was it technical, minor, or inadvertent?

9. What is the apparent "propensity" of the individual toward violating the law? What is and was the status of good faith of the individual?

10. How severe will the consequences be to the careers and reputations of the affected parties? What statutory disqualifications will flow from the injunction (e.g., disbarment)?

11. Was the violation a novel one?

12. Was there good faith reliance on advice of counsel?[3]

The importance of these factors in assessing the appropriateness of utilizing such injunctive power was recently implicitly affirmed by Congress, in connection with the bill S. 249 relating to the '34 Act. The SEC, apparently, had sought to have the restraint of making a "proper showing" of the risk of future violation eliminated from the Act, so that merely by showing a past violation, however long ago and of whatever nature, it would have power to obtain an injunction. Leading members of the securities bar picked up the significance of the slight, unexplained changes in this section of the SEC's bill, and wrote a thorough letter to the bill Conferees explaining the nature of the proposed elimination of due process in the handling of these injunctions (Appendix A). The letter pointed out the various court decisions in this area, the substance of which is outlined in items 1 through 12 above. The Conferees, with essentially no explanation, but presumably in recognition of the requirements of due process and fairness, dropped the offending changes from the bill they recommended to the House and Senate, and which was the form in which the bill ultimately was enacted.

We believe that these reasonable limitations should similarly be engrafted onto the banking agencies' injunctive powers. In this area the limitations should be instituted through explicit reference in the statute, since there is very little case experience in this area, and will probably continue to be relatively little in the future. The statutory procedure will simply shorten the time in which these factors will come to have a bearing on banking agency injunctions.

One further improvement of the suspension provision would be to allow the person suspended to periodically test the appropriateness of a permanent order, by means of a petition to the agency after the expiration of a specified number of years (say, three) since the last order decision. The subsequent decision of the agency would be appealable to the courts as per the original order procedure. The virtue of such a provision is that it recognizes that govenment is fallible and may have made a mistake in a particular case, and hopefully would correct it via this means. Additionally, it also recognizes that even "guilty" individuals may become genuinely reformed. This reconsideration provision is also relevant to the removal and employment provisions, and is included also in the attached amendments to those provisions.

Amendments to the suspension provision which would accomplish the above reforms are attached as Appendix B.

2. 12 U.S.C. § 1818(e) Removal.

As noted previously, the present removal provision is deficient in not requiring an actual finding of undue risk to the bank in question by the continuation of the individual's association therewith. To correct this defect, we would recommend that the present language be amended by adding a requirement that the agency find in each case that the conduct in question does make the individual in question an undue risk to the bank and that it set forth the reasoning and opinions that lead it to such a conclusion. In most cases, such a finding would be justifiable; but in some, after reviewing the situation closely, the agencies might decide that the facts do not merit a removal order, or a court, as a more objective forum, might decide to overrule such a finding after it sifts out any non-objective agency biases.

In addition, many of the factors considered by the courts in '34 Act injunction situations, described in the suspension provision discussion above, are generally applicable to the removal area, and should be similarly explicitly referred to in the statute.

The other objection we have with respect to the removal provision, as noted earlier, is with respect to the part of the agencies' bill that would revise the removal provision with the addition of the unqualified terminology of "gross negligence" and "willful disregard." The provision as amended would read essentially that where an agency finds violations of laws or rules or cease-and-desist orders, or unsafe and unsound practices, or breaches of fiduciary duty, and finds that the bank (or other entity) has been or is being damaged, it may act to remove the responsible party if the conduct in question involved dishonesty or "gross negligence in the operation or management of the bank or institution or a willful disregard for its safety or soundness."

As the removal statute would read with these amendments, there would be no due-process restraint upon the "creation" of characterizations of conduct of the "gross negligence" or "willful disregard" types by hostile examinations, which examinations would also serve to generate the basic grounds for removal of "violations of laws or rules" and "unsafe and unsound practices." We therefore suggest that there be inserted in that new language the limitations that the gross negligence or willful disregard be objectively demonstrated by one or more bad faith or grossly negligent, serious violations of a cease-and-desist order, indicating a predilection for or likelihood of further violations. In other words, if the practice and conduct of which an agency is complaining is sufficiently important to the future of the bank, the agency should seek a cease-and-desist order. Whether the individual really was negligent or a "bad actor" may well not be able to be objectively determined at that time, and, if agency personnel are hostile to an individual banker for some reason, it is too easy for them to attribute, say, one bad management decision (made in good faith), to gross negligence or willful disregard. He should not be removed for those very subjective grounds when they can be relatively objectively verified by violations of explicit cease-and-desist orders.

The amendments implementing these concepts are attached in Appendix C.

3. 12 U.S.C. § 1829 Employment.

The existing employment provision is deficient, as described earlier, in that it does not provide for a hearing or substantive findings process for those convicted persons who request one, and does not involve more of a substantive standard than the mere fact of conviction for a crime involving dishonesty. While most such convicted persons would in fact be found to be undesirable as bankers from the government's standpoint, not necessarily all of them would, as there are occasionally meritorious explanations of the circumstances of conviction which, when combined with the agency's own knowledge of such an individual, would lead it to conclude that he is not in fact of a corrupt nature.

While the FDIC has voluntarily granted at least some hearings under this law, the law should be amended to require such hearings upon request of the affected party. Similarly, there should be access to judicial review. The substantive standards for considering the risk to the bank and equity to the individual concerned as outlined earlier in the section on the suspension provision should be a part of this statute, as well.

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[2] *FSLIC* versus *Hykel*, 333 F. Supp. 1308, 1311 (E.D. Pa., 1971); *Hecht Co.* versus Bowles, 321 U.S. 321, 329 (1944).

[3] Discussion of the case law on these points to be found in letter of Kenneth J. Bialkin *et al.* to House/Senate Conferees on S. 249, May 12, 1975. (Attached as Appendix A).

The amendments implementing these concepts are attached in Appendix D.

To summarize, the present federal laws on suspension, removal, and employment of persons in the banking business are unduly arbitrary, and lack the substantive tests commonly used to test the merits of injunctions in other situations. Also, the agencies' bill to strengthen their power in this area is defective in that it only increases the arbitrariness of the existing removal law. The amendments proposed herein have been designed to reduce the degree of arbitrariness in these laws, yet allow them to retain the essential authority needed for the agencies to deal effectively with malevolent or incompetent persons in the banking system. The result of the amendments herein proposed would be a somewhat more cumbersome administrative procedure in some situations, but a much fairer one. The trade-off, in our opinion, is one in which the due process benefits substantially outweigh the administrative burden involved. Persons who truly do not belong in the banking system will still be evictable, but those upon whom the present and proposed laws would otherwise work an unjust result would be dealt with fairly under the amendments we are proposing.

Your favorable consideration of these proposals is respectfully requested.

Sincerely,

MICHAEL E. BURNS.

APPENDIX A

LETTER FROM FIVE SECURITIES LAWYERS TO CONFEREES ON PROPOSED CHANGE OF 1934 ACT § 21(c)

MAY 12, 1975.

Honorable CONFEREES ON S. 249.

DEAR SIRS: The undersigned are members of the securities bar and respectively Chairmen of a committee and various subcommittees of the American Bar Association concerned with federal securities law developments.[1] In our individual capacities (there has been insufficient time to solicit the views of our respective committee and subcommittee members), we wish to voice strong opposition to little noticed, but significant, and we believe extremely detrimental, proposed changes to Section 21(c) of the Securities Exchange Act of 1934, contained in S. 249.[2] Section 21(e), which authorizes the SEC to seek injunctive relief in the federal courts in appropriate cases to protect the public interest from continuing or threatened securities law violations, presently states in part that—

"Whenever it shall appear to the Commission that any person is engaged or about to engage in . . . a violation . . ., it may in its discretion bring an action in the proper district court . . . to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted . . ."

Although not discussed in the Committee Report (Senate Report No. 94-75, April 14, 1975), in the back of the Report at page 241 where the proposed test of the bill itself is reproduced there is an indication that Section 21(e) would be amended, among other respects, (i) by adding the words "has engaged" to the present statutory language "is engaged or is about to engage in . . . a violation," and (ii) by changing the present statutory phrase "proper" showing to "such" showing. The proposed changes would appear to be designed to limit the equity powers of the federal courts and require the courts to issue an injunction on a mere showing that a defendant "has engaged' in a violation. The courts would be deprived of their traditional discretion to consider whether an injunction is actually required to prevent future violations of law. This would be contrary to the constitutionally mandated separation of powers. The Supreme Court refused over 30 years ago to allow Congress to deprive the federal courts of their historic equity discretion in injunctive cases.[3] The proposed changes appear to be intended to convert the SEC injunctive remedy into an automatic "branding" device, rather than a prophylactic, remedial enforcement weapon designed to protect the public interest from impending, threatened violations of law.[4]

This unfortunate result would be brought about because the proposed statutory changes would have the effect of removing from the federal courts their historic equity discretion in determining whether or not imposition of the harsh injunctive remedy is necessary to protect the public interest in a particular case when the SEC establishes that a defendant has committed a past violation of law even where minor or inadvertent.[5]

Under existing judicial precedent, when the SEC can not demonstrate that a defendant is currently violating, or about to violate, the law, upon proof by the SEC of a past violation of law the courts will impose injunctive relief against a defendant only if the SEC can demonstrate that there exists a "reasonable likelihood" or "cognizable danger" that the defendant will commit statutory violations in the future.[6] Courts typically look to (i) the nature and circumstances of the established past violation (i.e., Was it egregious, willful recent, or otherwise serious and harmful to the investigating public? Is it likely to be repeated? Or was it a stale, harmless, technical, minor, or inadvertent violation unlikely to be reported),[7] (ii) the "propensity" or "natural inclination" of the defendant to violate the law,[8] and (iii) the good faith,[9] or lack thereof,[10] of a particular defendant, in determining whether or not an inference of likely future violations should be drawn from proof of a particular past statutory violation.[11] While the SEC has been successful in a majority of its cases during the past 40 years in securing the injunctive relief it has requested against primary or central defendants pursuant to these established principles of equity jurisprudence,[12] in a potpourri of cases, particularly with respect to more peripheral defendants, courts have denied imposition of injunctive relief for various equitable reasons.[13]

One of the reasons why, in the exercise of traditional equitable discretion, courts refuse to issue injunctive relief in every case that a past statutory violation, no matter how technical or harmless, is proven, is that the imposition of an injunction pursuant to the federal securities laws triggers, directly and indirectly, a bundle of harsh statutory disqualifications that can severely damage, if not completely destroy or bar, the business careers of securities industry participants,[14] and can ruin the professions of attorneys, accountants, and other professionals who practice before the SEC.[15]

Depriving the federal courts of their historic equitable discretion in SEC injunctive cases, we submit, would be counterproductive to the public interest. Adoption of the proposed changes in Section 21(e), particularly in the absence of a full airing in Congressional hearings of the consequences of imposing such a drastic limitation on the equitable powers of the federal courts, would appear to be an unwarranted accommodation to the SEC's Enforcement Staff that will authorize the "branding" by the SEC as law violators of persons who reasonably can not be expected to violate the law in the future.[16] The proposed changes will convert the SEC's injunctive remedy into a punitive, rather than a remedial, enforcement tool.[17] This, we submit, will not serve the public interest, and is not necessary to assure compliance with, and effective enforcement of, the federal securities laws. Consequently, we urge the Committee to refuse to change the existing, time-tested language of Section 21(e).

In the event the Committee determines to add the "has engaged" language to Section 21(e), i.e., to specifically embrace past statutory violations, we particularly urge that the present requirement of a "proper showing" be retained in the statutory provision. Substituting the word "such" for "proper" would vitiate existing legal principles that require the SEC to establish a "reasonable likelihood" or "cognizable danger" of future violations before a court will grant injunctive relief. The proposed change in the statutory language would appear to require a court to impose an injunction in every case the SEC establishes a past violation of law, even if the violation is demonstrated to be inadvertent, harmless, technical, stale, and not serious, even if it is unlikely the violation will be repeated, and even if the defendant acted in complete good faith as, for example, upon the bona fide advice of competent, fully informed, legal counsel. We also would urge that the Committee Reports contain the following explanation to assure that the existing equitable discretion of a court to deny injunctive relief in appropriate cases, despite proof of a past violation, is not being abrogated:

The addition of the phrase "has violated" to Section 21(e) of the 1934 Act is not intended to change the nature of the "proper showing" the SEC must make to be entitled to injunctive relief. It is intended solely to demonstrate that the SEC has the power to seek, and the courts have the power in appropriate cases to issue, injunctive relief when a past violation of law can be established, even though the defendant is not currently violating the law and even though the SEC can not establish directly that the defendant is about to violate the law. But the SEC must be able to establish that the nature and circumstances of the past violation of law, or the propensities or natural inclinations of the defendant, under traditional equitable principles, support the drawing of an inference of a "reasonable likelihood" or "cognizable danger" of future violations absent imposition of an injunction. *See, e.g., SEC v. Texas Gulf Sulphur Co.*, 446 F.2d 1801 (2d Cir. 1971), *aff'ing* 312 F. Supp. 77 (S.D.N.Y. 1970); *SEC v. Culpepper*, 270 F.2d 241 (2d Cir. 1959); *SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082 (2d Cir. 1972); *SEC v. Bangor Punta Corporation*, 331 F. Supp. 1154 (S.D.N.Y. 1971), *aff'd sub nom. Chris-Craft Industries, Inc. v. Piper Aircraft Corp.*, 480 F.2d 341 (2d Cir. 1973); *SEC v. Harwyn Industries Corporation*, 232 F. Supp. 274 (S.D.N.Y. 1971); *SEC v. National Student Marketing Corp. (Bach, Allison and Tate)*, 360 F. Supp. 284 (D.D.C. 1973); *SEC v. Pearson*, 426 F.2d 1339 (10th Cir. 1970); *SEC v. Management Dynamics, Inc.*, F.2d CCH Fed. Sec. L. Rep. Par. 95,017 (2d Cir. 1975); *cf., United States v. W. T. Grant Co.*, 345 U.S. 629 (1953).

Thus, under the amended language, in addition to proof of a past violation, the SEC will still be required to prove that "equity" for an injunction exists. The amended provision is not intended to change existing law by removing from federal courts their historic equitable discretion to deny SEC-requested injunctive relief in cases where, even though a past statutory violation is proven, consideration of the nature and circumstances of the past violation and the natural inclinations and propensities of the defendant, will not support the drawing of an inference of a "reasonable likelihood" or "cognizable danger" of future statutory violations absent imposition of injunctive relief.

* * * * *

Respectfully submitted,

KENNETH J. BIALKIN,
ARTHUR F. MATHEWS,
MILTON V. FREEMAN,
WILLIAM H. PAINTER,
MANUEL F. COHEN.

Footnotes at end of article.

FOOTNOTES

[1] Kenneth J. Bialkin is Chairman of the Committee on Federal Regulation of Securities of the ABA's Section of Corporation, Banking and Business Law. Arthur F. Mathews is Chairman of the SubCommittee on Litigation. Milton V. Freeman is Chairman of the SubCommittee on SEC Enforcement. William H. Painter is Chairman of the SubCommittee on Legislation. Manuel F. Cohen is Chairman of the Subcommittee on Securities Activities of Banks.

[2] No such proposed changes appear in the companion House bill, H.R. 4111.

[3] In *Hecht Co. v. Bowles*, 321 U.S. 321, 329–30 (1944), Mr. Justice Douglas, a former Chairman of the SEC, outlined a trial court's discretion in an injunctive action as follows:

"The historic injunctive process was designed to deter, not to punish. The essence of equity jurisdiction has been the power of the Chancellor to do equity and to mold each decree to the necessities of the particular case. Flexibility rather than rigidity has distinguished it. The qualities of mercy and practicality have made equity the instrument for nice adjustment and reconciliation between the public interest and private claims."

[4] *See, e.g., SEC v. Texas Gulf Sulphur Co.*, 312 F. Supp. 77, 87–88 (S.D.N.Y. 1970), *aff'd*, 446 F.2d 130 (2d Cir. 1971).

[5] Judge Mansfield stated in *SEC v. Harwyn Industries Corporation*, 326 F. Supp. 943, 955 (S.D.N.Y. 1971), under the heading "Equitable Considerations":

"Thus in deciding whether or not to issue injunctive relief as requested, we are called upon to weigh all those considerations of fairness and justice that have been the historic concern of the equity courts . . . . [W]e have decided in the exercise of our discretion that injunctive relief should not be granted. It appears to us that the granting of an injunction here would be basically inequitable, and thus we find that the Commission has not made the 'proper showing' . . . [Citations ommitted.]

Judge Parker stated in *SEC v. National Student Marketing Corp. (Bach, Allison and Tate)*, 360 F. Supp. 284, 297 (D.D.C. 1973):

The purpose of injunctive relief is to protect the public from future violations and the Court retains broad discretion in determining whether the likelihood of future violations is such that an injunction should issue for this purpose The case law identifies several factors which are deemed relevant to the probability of recurrent violations. The character of the past violations, the effectiveness of the discontinuance and the bona fides of the expressed intent to comply are considered. The number and duration of past wrongs, the time which has elapsed since the last violation, the opportunity to commit further illegal acts, the novelty of the violation, and the harmful impact of the injunction on the defendant are objective factors which the courts have examined. Subjective inquiries into the wilfullness or bad faith in a defendant's prior conduct and the sincerity of his representations not to violate the law are also pertinent. [Footnotes omitted.]

[6] *See, e.g., SEC v. Culpepper*, 270 F.2d, 241, 249 (2d Cir. 1959); *SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082 (2d Cir. 1972); *SEC v. Management Dynamics, Inc.*, — F.2d ——CCH Fed. Sec. L. Rep. par. 95,017 (2d Cir. 1975); *cf., United States v. W. F. Grant Co.*, 345 U.S. 629 (1953).

[7] For example, *compare SEC v. Keller Corp.*, 323 F.2d 397 (7th Cir. 1973) with *SEC v. Harwyn Industries Corp.*, 326 F. Supp. 943 (S.D.-N.C. 1971).

[8] *See e.g., SEC v. Bangor Punta Corporation*, 331 F. Supp. 1154 (S.D.N.Y. 1971), *aff'd Sub nom. ChrisCraft Industries, Inc. v. Piper Aircraft Corp.*, 480 F.2d 341 (2d Cir. 1973); *SEC v. Computronic Industries Corp. (Hipp)* 294 F. Supp. 1136, 1138 (N.D. Tex. 1968).

[9] *See, e.g., SEC v. Texas Gulf Sulphur Co.*, 312 F. Supp. 77, 88 (S.D.N.Y. 1970), *aff'd*, 446 F.2d 1301 (2d Cir. 1971) ["the issuance of an injunction is inappropriate absent a showing of lack of good faith."]; *SEC v. Harwyn Industries Corp.*, 326 F. Supp. 943 (S.D.N.Y. 1971); *SEC v. Coffey and King*, 493 F.2d 1304 (6th Cir. 1974).

[10] *See SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082 (2d Cir. 1972).

[11] *See* A. F. Mathews, "S.E.C. Civil Injunction Actions—I and II," 5 Review of Securities Regulation, Nos. 4 and 6 (Feb. 18 and Mar. 22, 1972); *SEC v. National Student Marketing Corp. (Bach, Allison and Tate)*, 360 F. Supp. 284, 297 (D.D.C. 1973).

[12] *See* H. Pitt and J. Markham, "SEC Injunctive Actions," 6 *Review of Securities Regulation*, No. 5 (March 7, 1973).

[13] *See, e.g., SEC v. National Student Marketing Corp. (Bach, Allison and Tate)*, 360 F. Supp. 284, 297 (D.D.C. 1973); *SEC v. Pearson*, 426 F.2d 1339 (10th Cir. 1970); *SEC v. Texas Gulf Sulphur Co.*, 312 F. Supp. 77 (S.D.N.Y. 1970), *aff'd* 446 F.2d 1301 (2d Cir. 1971); *SEC v. Bangor Punta Corporation*, 331 F. Supp. 1154 (S.D.N.Y. 1971), *aff'd sub nom. Chris-Craft Industries, Inc. v. Piper Aircraft Corp.*, 480 F.2d 341 (2d Cir. 1973); *SEC v. Coffey and King*, 493 F.2d 1304 (6th Cir. 1974).

[14] For a listing of such direct and indirect statutory disqualifications arising upon imposition of an SEC injunction, *see* A.F. Mathews, "S.E.C. Civil Injunctive Actions," 5 *Review of Securities Regulation*, No. 4, at 969–70 (Feb. 18, 1972); R. Bemporad, "Injunctive Relief". In SEC Civil Actions: The Scope of Judicial Discretion," M Colum. J. Law and Soc. Prob. 328, at 340–42 (1974); *see also*, A.F. Mathews, *Enforcement and Litigation Under The Federal Securities Laws*—1975, at 94–97 (P.L., I, 1975; A.F. Mathews, "Liabilities of Lawyers Under the Federal Securities Laws," 30 Bus. Law. 105, at 135, 136 (ABA, March 1974).

[15] *See* Rule 2(e), SEC Rules of Practice; SEC 1933 Act Release No. 5147 (1971); N.S. Johnson, "The Expanding Responsibilities of Attorneys In Practice Before the SEC: Disciplinary Proceedings Under Rule 2(e) of the Commission's Rules of Practice," 25 Mercer L. Rev. 637 (1974). As Judge Mansfield stated in *SEC v. Harwyn Industries Corp.*, 326 F. Supp. 943, 957 (S.D.N.Y. 1974); "Furthermore, we must not forget that the issuance of an injunction can sometimes have a harmful impact on the personal reputations and legitimate business activities of defendants."

[16] *See Hecht Co. v. Bowles*, 321 U.S. 321, 329–30 (1944).

[17] *Ibid.*

APPENDIX B

Amendments to the Suspension Provision (12 U.S.C. § 1818(g)) Section 8(g) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(g), is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the appropriate Federal banking agency may be written notice, in accordance with the procedures and criteria specified in subsections (g)(3) and (g)(4) of this section, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension and/or prohibition shall become effective upon service of such notice and shall remain in effect until (1) terminated by the agency, or (2) the information, indictment, or complaint is finally disposed of, without a judgment of conviction, or (3) the completion of the administrative proceedings required under subsection (g)(3) of this section."

"(g)(2) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is convicted of the commission of or participation in a felony involving dishonesty or breach of trust, and at such a time as the judgment of conviction is not subject to further appellate review, the appropriate Federal banking agency may, in accordance with the procedures and criteria specified in subsections (g)(3) and (g)(4) of this section, serve upon such director, officer or other person a written notice of its intent to suspend him from office and/or prohibit him from further participation in any manner in the affairs of the bank."

"(g)(3) Any notice of suspension and/or prohibition pursuant to subsection (g)(1), and any notice of intent to issue an order of suspension and/or prohibition pursuant to subsection (g)(2), shall fix a time and place at which a hearing will be held thereon. Some hearing shall be fixed for a date not later than fifteen days after the date of service of such notice, unless a later date is set by the agency for good cause shown, at the request of (A) such director, officer, or other person, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such suspension and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that such person constitutes an undue risk to the bank by virtue of a predilection to dishonest conduct or breach of trust, or by virtue of probable adverse public reaction to the continued involvement of such person in the affairs of the bank, the agency may issue such an order of suspension and/or prohibition from participation in the conduct of the affairs of the bank as it may deem appropriate. Any such order shall become effective thirty days after service upon such bank and the director, officer, or other person concerned. Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court, except that an order originating upon the premise of subsection (g)(1) shall terminate upon final disposition of the information, indictment, or complaint without a judgment of conviction."

"(g)(4) Any notice of suspension and/or prohibition under subsection (g)(1) of this section and any notice of intent to issue a suspension and/or prohibition order under subsection (g)(2) of this section shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the grounds therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs. The mere fact of the existence of an outstanding information, indictment, complaint, or conviction for a felony involving dishonesty or a breach of trust shall not of itself preclude the appropriate banking agency or a reviewing court from concluding that the individual concerned does not in fact pose an undue risk to the bank in question from the standpoint of dishonesty or breach of trust, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved; the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit a dishonest act or breach of trust; the novelty of the crime complained of; the presence of good faith reliance upon advice of counsel; evidence of rehabilitation; and any other such considerations commonly

utilized by the courts in similar injunctive situations under other laws."

"(g)(5) Any person subject to an order issued under subsection (g)(3) of this section shall be entitled to submit a petition to the appropriate Federal banking agency for reconsideration of the order after the expiration of three years from the date of the order or of the last reaffirmation thereof by the agency pursuant to this subsection. The provisions of subsection (h) of this section shall apply to any such petition and to any such reaffirmed order."

"(g)(6) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office."

Amendments to the Judicial Review Sections (12 U.S.C. § 1818(h) and § 1818(i)).

Section 8(h) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(h), is amended to read as follows:

"(h)(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the home office of the bank is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of Title 5. Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. Within ten days after such hearing, the appropriate Federal banking agency or Board of Governors of the Federal Reserve System shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusivly as provided in this subsection (h). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the issuing agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the agency may modify, terminate, or set aside any such order with permission of the court."

"(h)(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the bank or the director or officer or other person concerned) by the filing in the court of appeals of the United States for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in Section 2112 of Title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (1) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of Title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of Title 28, and except as provided in subsections (e)(6) and (g)(5 of this section."

Section 8(i) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(i) is amended to read as follows:

"(i) The appropriate Federal banking agency may in its discretion apply to the United States district court, or the United States Court of any territory, within the jurisdiction of which the home office of the bank is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance herewith."

Appendix C

Amendments to the Removal Provision 12 U.S.C. § 1818(e)).

Section 8(e) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(e), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either (i) one involving personal dishonesty on the part of such director or officer, and the facts indicate that such individual continues to pose an undue risk of injury to the bank by virtue of personal dishonesty, or (ii) in the case of a violation of a cease-and-desist order, one which demonstrates his gross negligence in the operation or management of the bank or a willful disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office, subject to the provisions of subsection (e)(5) of this section."

Paragraph (e)(2) is repealed.

Paragraph (e)(3) is redesignated as paragraph (e)(2) and is amended to read as follows:

"(e)(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or, in the case of a violation of a cease-and-desist order, his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either (i) his personal dishonesty and a predilection toward further personal dishonesty, constituting an undue risk of injury to the bank, or, (ii) in the case of a violation of a cease-and-desist order, his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of the bank, subject to the provisions of subsection (e)(5) of this section."

Paragraph (e)(4) is repealed.

Paragraph (e)(5) is redesignated as paragraph (e)(3) and is amended to read as follows:

"(e)(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participating in *any manner in the conduct of the affairs of* the bank, subject to the provisions of subsection (e)(5) of this section. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsections (e)(1) or (e)(2) of this section and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated."

Paragraph (e)(6) is repealed.

Paragraph (e)(7) is repealed.

Paragraph (e)(8) is redesignated as paragraph (e)(4) and is amended to read as follows:

"(e)(4) A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency for good cause shown at the request of (A) such director or officer or other person or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice has been established, the agency may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer, or other person with

respect to a national banking association or a district bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court."

"(e)(5) Any notice of intent to issue a removal and/or suspension order under subsections (e)(1) or (e)(2) of this section, and any notice of suspension and/or prohibition under subsection (e)(3) of this section, shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the ground therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs. With respect to the question of "personal dishonesty", the agency or a reviewing court may conclude at any time that the individual concerned does not in fact pose an undue risk to the bank in question by virtue of dishonest conduct, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved, if any; the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious and willful intent to commit the dishonest act or breach of trust in question; the novelty of the crime, if any, complained of; the presence of good faith reliance upon advice of counsel; evidence of rehabilitation and any other such considerations commonly utilized by the courts in similar injunctive situations under other laws. With respect to the questions of "gross negligence" or "willful disregard", such shall only be grounds for removal when evidenced by one or more violations of a cease-and-desist order, and such violations are serious and non-technical in nature. "Willful disregard" is not established unless an intent in bad faith not to comply with the order is also evidenced."

"(e)(6) Any person subject to an order issued under subsection (e)(4) of this section shall be entitled to submit a petition to the appropriate Federal banking agency for reconsideration of the order after the expiration of three years from the date of the order or of the last reaffirmation thereof pursuant to this subsection. The provisions of subsection (h) of this section shall apply to any such petition and to any such reaffirmed order."

APPENDIX D

Amendments to the Employment Provision (12 U.S.C. § 1829).

Section 19 of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1829, is amended to read as follows:

"(a) Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. Upon petition of such a person, setting forth the justification for such consent, the Corporation shall within thirty days conduct a hearing for the purpose of assessing the potential risk to the bank from the participation of the petitioner in its affairs as a director, officer, or employee. The Corporation shall within ten days after such a hearing give such consent if it determines that the petitioner does not pose an undue risk of injury to the bank by virtue of dishonest conduct or breach of trust; otherwise it shall issue a written decision denying the petition. The Corporation and any reviewing court may conclude that the individual concerned does not in fact pose an undue risk to the bank in question, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved, the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit the dishonest act or breach of trust for which he was convicted; the novelty of the crime for which he was convicted; the presence of good faith reliance upon advice of counsel in the circumstances for which he was convicted; evidence of rehabilitation; and any other such considerations commonly used by the courts in similar injunctive situations under other laws. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100.00 for each day this prohibition is violated, which the Corporation may recover for its use."

"(b) A person denied permission to serve as a director, officer, or employee of an insured bank after submitting a petition pursuant to subsection (a) of this section, shall be entitled to resubmit a petition after the expiration of three years from the date of the last such adverse decision. Within thirty days after the service upon such person of an adverse decision under subsections (a) or (b) of this section, he may obtain review of the decision by filing in the United States Court of Appeals for the District of Columbia Circuit a written petition praying that the decision of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of Title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of Title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of Title 28, and except as provided in the first sentence of this subsection."

"(c) With respect to the affairs of any state non-member bank, any hearing and decision required by this section may be held or rendered, respectively, by the Corporation in coordination with any similar hearing and order pursuant to Section 1818(g), and the specified time periods and other procedural requirements applicable in such case shall be those of Section 1818(g)."

AMENDMENT NO. 1579

Beginning with page 11, line 18, strike out all through page 16, line 7, and insert in lieu thereof the following:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either (A) one involving personal dishonesty on the part of such director or officer, and the facts indicate that such individual continues to pose an undue risk of injury to the bank by virtue of personal dishonesty, or (B) in the case of a violation of a cease-and-desist order, one which demonstrates his gross negligence in the operation or management of the bank or a willful disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office, subject to the provisions of subsection (e)(5) of this section.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or, in the case of a violation of a cease-and-desist order, his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either (i) his personal dishonesty and a predilection toward further personal dishonesty, constituting an undue risk of injury to the bank, or, (ii) in the case of a violation of a cease-and-desist order, his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of the bank, subject to the provisions of paragraph (5) of this subsection.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participating in any manner in the conduct of the affairs of the bank, subject to the provisions of paragraph (5) of this subsection. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of those affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such

hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency for good cause shown at the request of (A) such director or officer or other person or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice has been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer, or other person with respect to a national banking association or a district bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(5) Any notice of intent to issue a removal or suspension order under paragraph (1) or (2), and any notice of suspension or prohibition under paragraph (3), shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the grounds therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs. With respect to the question of 'personal dishonesty', the agency or a reviewing court may conclude at any time that the individual concerned does not in fact pose an undue risk to the bank in question by virtue of dishonest conduct, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved, if any; the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious and willful intent to commit the dishonest act or breach of trust in question; the novelty of the crime, if any, complained of; the presence of good faith reliance upon advice of counsel; evidence of rehabilitation and any other such considerations commonly utilized by the courts in similar injunctive situations under other laws. With respect to the questions of 'gross negligence' or 'willful disregard', such shall only be grounds for removal when evidenced by one or more violations of a cease-and-desist order, and such violations are serious and non-technical in nature. 'Willful disregard' is not established unless an intent in bad faith not to comply with the order is also evidenced.

"(6) Any person subject to an order issued under paragraph (4) of this subsection shall be entitled to submit a petition to the appropriate Federal banking agency for reconsideration of the order after the expiration of three years from the date of the order or of the last reaffirmation thereof pursuant to this subsection. The provisions of subsection (h) of this section shall apply to any such petition and to any such reaffirmed order."

(e) Section 8(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (g)), is amended to read as follows:

"(g) (1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the appropriate Federal banking agency may by written notice, in accordance with the procedures and criteria specified in subsections (g) (3) and (g) (4) of this section, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension and/or prohibition shall become effective upon service of such notice and shall remain in effect until (1) terminated by the agency, or (2) the information, indictment, or complaint is finally disposed of, without a judgment of conviction, or (3) the completion of the administrative proceedings required under paragraph 3 of this subsection.

"(2) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is convicted of the commission of or participation in a felony involving dishonesty or breach of trust, and at such time as the judgment of conviction is not subject to further appellate review, the appropriate Federal banking agency may, in accordance with the procedures and criteria specified in paragraphs (3) and (4) of this section, serve upon such director, officer or other person a written notice of its intent to suspend him from office or prohibit him from further participation in any manner in the affairs of the bank.

"(3) Any notice of suspension or prohibition pursuant to paragraph (1), and any notice of intent to issue an order of suspension or prohibition pursuant to paragraph (2), shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not later than fifteen days after the date of service of such notice, unless a later date is set by the agency for good cause shown, at the request of (A) such director, officer, or other person, or (3) the Attorney General of the United States. Unless such director, officer, or other person shall appeal at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such suspension or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that such person constitutes an undue risk to the bank by virtue of a predilection to dishonest conduct or breach of trust, or by virtue of probable adverse public reaction to the continued involvement of such person in the affairs of the bank, the agency may issue such an order of suspension or prohibition from participation in the conduct of the affairs of the bank as it may deem appropriate. Any such order shall become effective thirty days after service upon such bank and the director, officer, or other person concerned. Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a review court, except that an order originating upon the premise of paragraph (1) shall terminate upon final disposition of the information, indictment, or complaint without a judgment of conviction.

"(4) Any notice of suspension or prohibition under paragraph (1) of this section and any notice of intent to issue a suspension or prohibition order under paragraph (2) of this section shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the grounds therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs. The mere fact of the existence of an outstanding information, indictment, complaint, or conviction for a felony involving dishonesty or a breach of trust shall not of itself preclude the appropriate banking agency or a reviewing court from concluding that the individual concerned does not in fact pose an undue risk to the bank in question from the standpoint of dishonesty or breach of trust, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved; the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit a dishonest act or breach of trust; the novelty of the crime complained of; the presence of good faith reliance upon advice of counsel; evidence of rehabilitation; and any other such considerations commonly utilized by the courts in similar injunctive situations under other laws.

"(5) Any person subject to an order issued under paragraph (3) shall be entitled to submit a petition to the appropriate Federal banking agency for reconsideration of the order after the expiration of three years from the date of the order or of the last reaffirmation thereof by the agency pursuant to this subsection. The provisions of subsection (h) of this section shall apply to any such petition and to any such reaffirmed order.

"(6) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office."

(f) Section 8(h) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (h)), is amended to read as follows:

"(h) (1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the home office of the bank is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. Within ten days after such hearing, the appropriate Federal banking agency or Board of Governors of the Federal Reserve System shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (h). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the issuing agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the agency may modify, terminate, or set aside any such order with permission of the court.

"(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the violations or practices stated therein,

may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the bank or the director or officer or other person concerned) by the filing in the court of apeals of the United States for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (1) be exclusive, to affirm, modify, terminate, or set aside, in the whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of title 5. United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code, and except as provided in paragraphs (5) and (6) of this section.

(g) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(i)), is amended to read as follows:

"(i)(1) The appropriate Federal banking agency may in its discretion apply to the United States district court, or the United States Court of any territory, within the jurisdiction of which the home office bank is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance herewith.

"(2) Any insured bank which violates or any

At the end of the bill, add the following:

SEC. 8. Section 19 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1829), is amended to read as follows:

"Sec. 19. (a) Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. Upon petition of such a person, setting forth the justification for such consent, the Corporation shall within thirty days conduct a hearing for the purpose of assessing the potential risk to the bank from the participation of the petitioner in its affairs as a director, officer, or employee. The Corporation shall within ten days after such a hearing give such consent if it determines that the petitioner does not pose an undue risk of injury to the bank by virtue of dishonest conduct or breach of trust; otherwise it shall issue a written decision denying the petition. The Corporation and any reviewing court may conclude that the individual concerned does not in fact pose an undue risk to the bank in question, due to any one or more of the following considerations: the technical, unintentional nature of the crime involved, the absence of bad faith conduct; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit the dishonest act or breach of trust for which he was convicted; the novelty of the crime for which he was convicted; the presence of good faith reliance upon advice of counsel in the circumstances for which he was convicted; evidence of rehabilitation; and any other such considerations commonly used by the courts in similar injunctive situations under other laws. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover for its use.

"(b) A person denied permission to serve as a director, officer, or employee of an insured bank after submitting a petition pursuant to subsection (a) of this section, shall be entitled to resubmit a petition after the expiration of three years from the date of the last such adverse decision. Within thirty days after the service upon such person of an adverse decision under subsections (a) or (b) of this section, he may obtain review of the decision by filing in the United States Court of Appeals for the District of Columbia Circuit a written petition praying that the decision of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, and except as provided in the first sentence of this subsection.

"(c) With respect to the affairs of any State non-member bank, any hearing and decision required by this section may be held or rendered, respectively, by the Corporation in coordination with any similar hearing and order pursuant to section 1818(g), and the specified time periods and other procedural requirements applicable in such case shall be those of section 1818(g)."

NATIONAL FOOD STAMP REFORM ACT OF 1976—S. 3136

AMENDMENTS NOS. 1580 AND 1593

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

Mr. BELLMON submitted two amendments intended to be proposed by him to Amendment No. 1571 proposed to the bill (S. 3136) to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility simplifying administration, and tightening accountability, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS FOR PREVENTIVE HEALTH SERVICES—HOUSE JOINT RESOLUTION 890

AMENDMENT NO. 1581

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

Mr. BUMPERS. Mr. President, I am pleased to see that the President has taken the leadership to propose an all-out effort to combat the possibility of swine influenza in this country. We all agree I am sure that preventive action is much more desirable and sensible than dealing with the consequences of an epidemic, both in terms of human costs and dollar costs.

The number of children in this country susceptible to preventable childhood diseases is a reflection of one of the most abysmal failures in the medical history of our Nation. Vaccines are available to protect children against polio, diphtheria, pertussis, tetanus, measles, mumps, and rubella which are safe and effective. Yet, the U.S. Immunization Survey of 1975 estimates that 15.5 million children are not fully protected against polio; 9.3 million children are not protected against DPT; 13.8 million are not protected against measles; 13.9 million children remain susceptible to rubella, and 26.4 million to mumps. The failure to conduct adequate awareness programs alerting the public to the risks and costs of epidemics, compounded by a lack of funding to design and support aggressive immunization programs, has, and continues, to cost society countless billions of dollars in unnecessary medical expense, institutional care, and loss of productivity, to say nothing of the pain, suffering, and despair.

The efficacy of immunization against childhood communicable diseases in cost-benefit terms is easy to illustrate. Studies of debilities resulting from communicable diseases in past years demonstrate, for example, that a single case of mental retardation from a disease such as rubella could cost more than $900,000 for a lifetime of institutional care plus loss of productivity. The Center for Disease Control reports in its March 19, 1976, Morbidity and Mortality Weekly Report that 2,576 cases of rubella have been identified during the first 10 weeks of this year. A reasonable estimate is that 1 percent or 257 of those cases will be pregnant mothers. It further shows a total of 6,667 cases of measles compared to 3,846 for the first 10 weeks of 1975. And there are predictions based on documented 10-year cycles of epidemics, that 1976–77 could be epidemic years for both mumps and measles. It should be also noted that these are the only "reported" cases.

Present plans are for the swine flu vaccine not to be given to children under 5 years of age. There is additional concern by medical experts about giving both swine flu vaccine together with the vaccines for preventable childhood diseases to other children in tandem. Even so, the 1975 United States Immunization Survey indicates that among the children of this country under age 5, 4.5 million are susceptible to polio, 3.2 million susceptible to DPT, 4.4 million susceptible to measles, 4.9 million susceptible to rubella—German measles—and 7.1 million to mumps. If we made a conscientious, dedicated, massive effort just to reach those under 5, it would be a very significant accomplishment for preventive medicine.

The cost of purchasing vaccines for children under 5 years of age would be $22,496,000. Assuming that 50 percent of this category are in the public sector—children in families who are eligible for public assistance—the cost could be halved to $11,248,000. This assumes that the other 50 percent could, and would, with a public awareness campaign, be immunized by their private physicians at private expense. Add to this approximately 25 cents for each inoculation an-

ticipated in the public sector, as an incentive for the States to undertake such a project—$3,000,000—and the total costs for a substantial beginning toward filling a serious medical vacuum in our society would be $14,248,000.

Mr. President, all but three States in this country have laws which prohibit children being enrolled in school until they have been immunized against all of the above diseases. Unfortunately, the laws are not vigorously enforced. Even if they were, a preschool-aged child who contracts rubella can certainly communicate it to his mother, and if that mother is in the first 3 months of pregnancy, it is a medical certainty that the child will be born handicapped. There are approximately 250,000 people in this Nation housed in institutions for the mentally ill. It is estimated that between 5 and 9 percent of those cases are the results of the mother contracting rubella during the first 3 months of pregnancy. There are probably two to three times that many less profoundly handicapped children in sheltered workshops and remaining at home who constitute a serious financial drain on families and a loss of productivity to society. But if one only calculated that 7 percent of them, or 17,500 of the above number are institutionalized as a result of rubella, using the $900,000 per handicapped person figure above, the cost translates to $15,750,000,000. Mr. President, this is an outrageous statistic and should be a cause of shame to all of us.

Mr. President, it does not have to be this way. In 1973–74, the State of Arkansas, through a massive coordination and cooperation effort by existing public agencies, such as the State health department, Cooperative Extension Service, and the National Guard together with the Arkansas League for Nursing, the Arkansas Medical Society, and over 10,000 volunteers, lowered the percentage of susceptible children, from one of the highest in the Nation to the lowest.

There is now a program being developed called "Every Child in 76" to attempt the same program nationally. It is sponsored by the National League for Nursing, and has been endorsed by the PTA, the National Governors Conference, HEW, and others. The American Revolution Bicentennial Administration has given it its approval as the only health related project in the Nation. The success of this program will not depend solely on an appropriation, but it would be tragic for it to be less than successful for lack of funds. It is essentially a volunteer effort of getting children to clinics or private physicians.

I am therefore submitting an amendment to House Joint Resolution 890 to appropriate $14,284,000 for immunization from childhood diseases. Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD, and I urge its adoption by the Committee on Appropriations in the Senate.

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

AMENDMENT No. 1581

On page 1, line 3, strike the words "sum is" and insert in lieu thereof the words "sums are";

And on page 2, after line 11, add the following:

"HEALTH SERVICES ADMINISTRATION BUREAU OF COMMUNITY HEALTH SERVICES MATERIAL AND CHILD HEALTH

"For carrying out disease prevention, control, and immunization programs for measles, rubella, poliomyelitis, and other childhood diseases, $14,248,000, to remain available until expended: *Provided*, that vaccines may be supplied to State and local health agencies without charge."

AMENDMENT NO. 1582

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

Mr. BAYH. Mr. President, today I am submitting an amendment to House Joint Resolution 890, the emergency supplemental appropriations bill for fiscal year 1976.

Briefly, my amendment will provide for $35 million for the remainder of the current fiscal year to carry out a nationwide immunization program against childhood diseases.

The program is targeted at children in the 1–4 age group. This group will generally be excluded, for medical reasons, from the swine influenza immunization program, for which this bill appropriates $135 million. Thus the problem of administering more than one type of vaccination to the same individual does not arise.

Mr. President, I am deeply concerned about the state of our national immunization programs. The Federal effort to control communicable diseases through immunization has declined from $17 million in 1970 to a mere $6.2 million in 1975. Yet a significant proportion of Americans remain susceptible to serious diseases for which effective immunizing vaccines exist. Thirty-seven percent are not completely immunized against polio. Corresponding percentages for other diseases are: DPT—diptheria, pertussis or whooping cough, tetanus—26 percent; measles—36 percent; rubella—40 percent.

Of particular concern is the growing number of unimmunized children. The U.S. Immunization Survey of 1975 estimates that 15.5 million children are not fully protected against polio; 9.3 million children are not protected against DPT; 13.3 million are not protected against measles; 13.9 million remain susceptible to rubella; and 26.4 million to mumps. Many of these unimmunized children are below the age of 5.

My amendment will provide funds for the Department of Health, Education, and Welfare to conduct immunization programs for polio, DPT, measles, rubella, and mumps. This amount is sufficient to reach susceptible children between the ages of 1–4 years. In addition, I have sought to provide sufficient funds to carry out a catchup program to reach those children above the age of 4 who have received only partial immunization for various diseases, as well as children over 5 who received no immunization at all at an earlier age.

There is an obvious need for such programs. We are not talking about simple childhood diseases, but about diseases which may have tragic side effects. Rubella, for example, if passed from a child to a pregnant woman, can cause terrible deformities in the unborn child.

This is a cost-effective program. Even apart from the reduction in human suffering which preventive treatment will provide, it is far, far cheaper to keep people from getting sick by administering a vaccine than it is to treat them after they become ill.

I have a particular reason for offering this amendment to the emergency supplement appropriations bill. This bill deals primarily with the national swine flu immunization program. It has attracted a good deal of public attention; a massive educational campaign will be undertaken to inform the public of the availability of the flu vaccine. This is a prime opportunity to "piggyback" our efforts to immunize against other diseases—while public attention is focused on the flu immunization program.

Acceptance of this amendment will help to regenerate the important immunization programs which have declined so drastically in recent years.

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

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

AMENDMENT No. 1583

At the appropriate place under the heading "Preventive Health Services" strike:

"$135,064,000, to remain available until expended: *Provided*," and insert in lieu thereof: "$170,064,000, to remain available until expended: *Provided*, That of the sum herein appropriated, $35,000,000 shall remain available for carrying out disease prevention, control, and immunization programs for measles, rubella, poliomyelitis, and other childhood diseases: *Provided further*,"

CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 1977—SENATE CONCURRENT RESOLUTION 109

AMENDMENT NO. 1584

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

Mr. LONG submitted an amendment intended to be proposed by him to the concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the United States Government for the fiscal year 1977 (and revising the congressional budget for the transition quarter beginning July 1, 1976).

(The remarks of Mr. LONG when he submitted the amendment appear later in today's RECORD.)

AMENDMENT NO. 1585

(Ordered to be printed.)

Mr. CRANSTON (for himself, Mr. HARTKE, Mr. RANDOLPH, and Mr. THURMOND) proposed an amendment to the

concurrent resolution (S. Con. Res. 109), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 1444 AND 1472

At the request of Mr. BUMPERS, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of amendment No. 1444 and amendment No. 1472 intended to be proposed to S. 2484, a bill to amend Public Law 566, Watershed Protection and Flood Prevention Act, as amended, to remove the limitation on any single loan or advancement for watershed works of improvement.

ANNOUNCEMENT OF GOVERNMENT OPERATIONS COMMITTEE MARKUP

Mr. RIBICOFF. Mr. President, I wish to announce that the Government Operations Committee will tomorrow, April 9, hold a second day of markup on the Watergate reform legislation, S. 495. The committee may also consider the Presidential Protection Assistance Act, S. 2166, and its companion bill, H.R. 1244. The markup will begin at 10 a.m. in room 3302.

The committee may also consider the Subcommittee on Federal Spending Practices' decisions on conferring use immunity.

NOTICE OF HEARINGS

Mr. NELSON. Mr. President, I wish to announce that the Monopoly Subcommittee of the Senate Small Business Committee has scheduled hearings on Medical Education and the Drug Industry.

The hearings will be held on April 28, in room 318, Caucus Room, at 10 a.m.; on May 5, room 1114, Dirksen Senate Office Building at 10 a.m.; and on May 6, room 1318, Dirksen Senate Office Building at 10 a.m. The witnesses will be announced later.

ANNOUNCEMENT OF HEARINGS

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission, Task Forces Nos. 2, 3, and 4 on Tribal government, Federal Administration and Federal, State and Tribal Jurisdiction, announces public hearings to be held April 15th and 16th, 1976 from 9:30 a.m. to 6 p.m. at the Sheraton Inn, 1400 8th Avenue NW, Aberdeen, S. Dak.

These hearings are concerning issues relating to tribes and others in the States of North Dakota, South Dakota, Nebraska, Kansas, and Wyoming.

For further information call Paul Alexander at 202-225-2235, 2984 or 2979 or write the American Indian Policy Review Commission, HOB Annex No. 2, 2d, and D Streets SW, Washington, D.C. 20515.

ANNOUNCEMENT OF HEARINGS

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission, Task Forces Nos. 2, 3, and 4 on Tribal Government, Federal Administration and Federal, State and Tribal Jurisdiction, announces public hearings to be held April 19, 1976 for 9:30 a.m. to 6 p.m. at the Edgewater, 100 Madison, Missoula, Mont.

These hearings are concerning issues relating to tribes and others in the States of Montana and Idaho.

For further information call Paul Alexander at 202-225-2235, 2984 or 2979 or write the American Indian Policy Review Commission, HOB Annex No. 2, 2d and D Streets SW, Washington, D.C. 20515.

ADDITIONAL STATEMENTS

SOVIET WEAKNESSES REVEALED AT 25TH PARTY CONGRESS

Mr. ROBERT C. BYRD. Mr. President, at the 25th Party Congress recently concluded in Moscow, General Secretary Brezhnev reaffirmed his intention to continue the policy of détente with the Western industrial nations. Officially inaugurated at the 24th Party Congress 5 years ago, détente is reportedly still a heated subject among the Kremlin leadership.

Meanwhile, in the United States, the terms of détente—and even the use of the word itself—have become controversial in light of Soviet adventures in Africa. At the same time, Soviet military strength has become a leading national security issue here in this country and some are saying that the United States is losing its influence around the world to the Soviets.

Since overall Soviet strategic strength is at question, it is worthwhile to examine the 25th Party Congress which highlighted three major Soviet problem areas. The Kremlin leaders have some serious problems at home and abroad, and those who are seeking to make a balanced comparison between the United States and Soviet Union cannot disregard these shortcomings in the Soviet system.

The initial problem area, and the one which aroused the most dramatic attention at the Party Congress, is the splintering Communist movement. Moscow's self-proclaimed leadership of the international Communist movement suffered another blow when the French and Italian representatives made it clear that they want independence to participate in their own nation's politics without interference from Moscow.

Coming from the two largest and most influential Communist parties in Western Europe, this demand for independence is acutely embarrassing and frustrating for the Soviets. Dissension among the ruling Communist parties namely in China, Romania, and Yugoslavia—has long been a matter of record. This ideological dissension has now spread to the nonruling parties in Western Europe—the very instruments by which Moscow had hoped to spread Soviet-style communism in Europe and break up the NATO bloc. This represents another setback to the Soviets on the heels of their failures in Portugal and the Middle East.

The second problem discussed at the Party Congress—and the nemesis of the country since the Bolsheviks seized power nearly 60 years ago—was Soviet agriculture. The top party official in charge of agriculture was even dropped from the leadership—no doubt as an expression of frustration and disappointment over recent harvest disasters.

The ninth 5-year plan, initiated in 1971 at the same Party Congress which introduced the policy of détente, increased substantially the Government's investments in agriculture. With these investments, the Soviets undertook the importing of animal breeder stocks from the United States, beginning large-scale agribusiness enterprises, and increasing the yearly goals for harvesting grain. But disastrous harvests in 1972 and 1975 forced the Soviets to turn to the United States when these ventures failed and they were in desperate need of food as well as livestock feed.

The 1975 harvest was the worst in a decade. It fell short by a full one-third from the projected 210 million tons of grain and left the Soviets with insufficient feed grain for their livestock. The result was a heavy slaughtering of the expensive breeder animals.

Early agricultural forecasts for 1976 point to another bad year for Soviet agriculture as a result of poor weather conditions in the south. If these dismal forecasts prove correct, Soviet purchases of American grain will again be high, possibly as high as 1975 levels.

As witnessed by the 5-year agreement signed last year to purchase American grain, the Soviet Government and the Soviet people have a genuine interest in America's bountiful agriculture. The supply and impact of our food are not lost on them and they will need the success of our free enterprise system as long as their system fails to produce.

The third major problem revealed at the Party Congress dealt with the necessity to bolster up their sagging economy. Their domestic economy is geared to provide the highest priorities in materials, resources, and manpower to the defense industry—at the expense of the Soviet consumer. The result is shoddy services, inferior finished products, and the lowest standard of living of the major industrialized nations.

In order to prop up the economy and receive the benefits of advanced technology, the Soviets have had to turn to the West. Purchasing the goods and buying the grain that they cannot provide have compounded their economic difficulties by depleting their gold and hard currency reserves and leaving them with a burdensome foreign trade balance.

Figures for 1975 reveal that the Soviets will have a staggering $5 billion trade deficit which is not expected to improve in 1976. Prime Minister Kosygin addressed this serious economic problem at the Party Congress when he said that it was imperative that they expand their export potential.

Over the long run, Soviet dependency on Western technology and agriculture can greatly improve the chances for world peace and international stability. With a mutually beneficial trading relationship, the integration of diverse economies could reinforce attempts to relax political tension.

In effect, the proceedings of the 25th

Party Congress revealed to the whole world the manifold weaknesses of the Soviet system. As is well known, the dictatorship run by the Communist Party is so inept that it can neither feed its own people, nor give them the basic necessities and human freedoms that we all value. Were it not for the strength of the military and secret police, it is doubtful that the system could survive.

At a time when the Soviets are so vulnerable to Western food products and advanced technology, we should remember that we are dealing from strength. And unless we can receive assurances that détente will not qualitatively improve the Soviet military or diminish American supremacy, we must be most cautious.

Those are the standards that must never be compromised or bargained away. Détente can only be pursued from this position of strength and not as a tactic of retreat or withdrawal.

BICENTENNIAL PLEDGE

Mr. HATFIELD. Mr. President, America's Bicentennial is a time for rejoicing and introspection, not only in a corporate, national sense, but in our position as individual Americans. For our Bicentennial Year to have genuine meaning, it must be the occasion for considerable personal thought as to what this country means and where it is going.

Sara Ensor, of Frederick, Md., has given the Bicentennial just such thought. She has examined the philosophical and spiritual underpinnings of the American Republic, and, in the Bicentennial Pledge she has authored, calls upon each American to recognize and reaffirm the values which inhere in our society and our system.

I would like to share with my colleagues the wisdom and thinking embodied in the Bicentennial Pledge. I, therefore, ask unanimous consent that the pledge be printed in the RECORD.

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

BICENTENNIAL PLEDGE

Inspired by the Founding Fathers, we also pledge "our lives, our fortunes, and our sacred honor" to the end that all men everywhere find the dignity of responsibility and the right to "life, liberty and the pursuit of happiness."

FREEDOM

They said:

Liberty can no more exist without virtue than the body can live and move without a soul.—John Adams

We pledge:

To so live that America finds true freedom—not freedom to do as we wish, but freedom to do "the right as God gives us to see the right."

CORRUPTION

They said:

Virtue or morality is a necessary spring of popular government.—George Washington

We pledge:

To answer corruption in the nation, starting with absolute honesty in all our own dealings.

ECONOMY

They said:

I place economy among the first and most important virtues, and public debt the greatest of dangers to be feared.—Thomas Jefferson

We pledge:

To buy on the basis of need and not of greed, and to refuse to make selfish demands of our workers, employers or government.

HUNGER

They said:

We have been the recipients of the choicest bounties of heaven. We have grown in wealth . . . and numbers as no other nation has grown. But we have forgotten God.—Abraham Lincoln

We pledge:

To set a pattern for unselfish living that can break the bottlenecks of waste, greed and graft which rob the hungry in a world of plenty.

FAMILY

They said:

I have always thought it of very great importance that children should, in the early part of life, be unaccustomed to such examples as would tend to corrupt the purity of their words and actions.—Abigail Adams

We pledge:

To uphold the sanctity of marriage, and to base family life on honesty, undemanding care and goals beyond self-fulfillment and material success.

VIOLENCE

They said:

No man can make me stoop so low as to hate him.—Booker T. Washington

We pledge:

To cure the hate that spawns violence by our caring and compassion.

They said:

Give me your tired, your poor,
Your huddled masses, yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me.
—Emma Lazarus on Statue of Liberty.

We pledge:

To open our homes and hearts to those of all races, faiths and social conditions. To restore broken relationships by putting right past wrongs.

GOVERNMENT

They said:

I have had so many . . . instances when I have been controlled by some other power than my own will, that I cannot doubt that this power comes from above.—Abraham Lincoln

We pledge:

To listen to God each day, seeking the inspired plan for our life and work, and accepting change in our basic motives where needed.

They said:

Men must choose to be governed by God, or they condemn themselves to be ruled by tyrants.—William Penn

We pledge:

To build a world free from blame and indifference, hate and fear, and governed by men and women who are governed by God.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the most persistent objections raised to ratification of the Genocide Convention is whether the Convention transgresses the first amendment to the Constitution. I think that if we examine this issue carefully, we will see that there is absolutely no contradiction between the Convention and the first amendment.

The case of Brandenburg against Ohio, heard by the Supreme Court in 1969, defines incitement about the same way the Genocide Convention does. It says that incitement under our Constitution is not mere advocacy. The Court said that we ought to permit advocacy of any doctrine unless that advocacy is likely to produce unlawful actions. Incitement is only action that is directed to producing imminent lawless action and is likely to incite or produce such action. The significance of this distinction is that the reference in article III of the Convention to "direct and public incitement to commit genocide" is perfectly consistent with our first amendment as interpreted by the Supreme Court in Brandenburg and other cases.

The question has also been raised as to whether a treaty can override the clear commands of our Bill of Rights, and specifically the first amendment. The Supreme Court has decided this several times, and in Reid against Covert makes it clear that no provision in a treaty could override the clear commands of the first amendment to the Constitution of the United States.

Mr. President, like so many of the objections to the Genocide Convention, this objection based on conflict with the first amendment is plainly at variance with the facts. If we look at all the facts, I am confident that we will ratify the Convention without any objection.

DR. MARY FULSTONE

Mr. LAXALT. Mr. President, one of the more demanding ways to make a living in rural Nevada is by accepting the heavy responsibilities of being an area physician. I use the term "area physician" because doctors are usually few and far between in the smaller communities in the State and, consequently, must shuttle long distances to care for their patients.

It requires a special kind of person to dedicate himself to a life of looking after the sick and injured in a setting which means long hours and little monetary reward when compared to urban practitioners. Lyon County is fortunate enough to have such an individual in Dr. Mary Fulstone. She has been working these past 56 years full throttle, commuting at all hours, often under very arduous conditions, to care for her patients.

A woman of her abilities could easily have opted for an easier and more lucrative practice in a larger city. Many of our young people have done just that, but Mary never left her friends.

Dr. Fulstone faithfully practices the Hippocratic oath and lives by it. She is truly concerned with helping those who need her attention and quite evidently sees past the mere market value of her skills.

In fact, Mr. President, I am probably belaboring the point here because I sincerely doubt Dr. Fulstone ever thought in terms other than being a good doctor in an area her family has lived for years. It is important, however, to recognize the wonderful and selfless career Mary has dedicated to the people of Lyon County. I am proud to have this opportunity before the U.S. Senate today.

Dr. Fulstone's hometown newspaper, the Mason Valley News, once listed the many deserving honors this woman has received as a result of her dedication to medicine and the people of Lyon County. At this time I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

DR. MARY FULSTONE HONORED BY SORORITY

At the Founder's Day Banquet on Tuesday, April 19, Phyllis Hunewill, president of Xi Alpha Beta Chapter announced that Dr. Mary Fulstone had been awarded an International Honorary Membership in Beta Sigma Phi. She also conferred the installation as Honorary Member upon Dr. Mary.

This honor is bestowed only upon distinguished women who are known internationally. Dr. Fulstone is at present the third Nevada woman to be so honored.

A tea will be held in her honor on Sunday, April 24, between 1 and 4 p.m., at Mrs. Richard Fulstone's home in Smith. Xi Alpha Beta chapter members extend an invitation to the public to attend. The chapters co-sponsoring Dr. Fulstone's honorary membership were Chi, Xi Upsilon, and Xi Alpha Eta of Yerington.

A native Nevadan, Dr. Mary Fulstone was born in Eureka. She moved to Carson City when she was four years old and remained there until her graduation from Carson High School in 1911. After receiving a BA degree from the University of California in 1915, Dr. Mary entered the University of California Medical School and obtained her MD degree in 1918. She interned at the Women's and Children's Hospital in San Francisco and then served as resident physician in internal medicine on the U.S. staff at San Francisco County Hospital. In 1920, upon her marriage to Fred M. Fulstone, Dr. Mary began her practice in Smith Valley. During the past forty-five years she has received many awards and honors.

In 1950 she was named "Nevada Mother of the Year" and she also received the Delta Zeta national award of "Woman of the Year." In 1961 the Nevada Medical Association chose her as "Doctor of the Year." She was honored for "outstanding community service by a physician" when she received the A. H. Robins award presented by Dr. Wesley Hall, president of the Nevada State Medical Association. In 1964, she received an honorary degree from the University of Nevada as "an outstanding citizen." In 1965 she was awarded the Golden Rose emblem of the Delta Zeta Sorority. This emblem is presented to fifty year members in commemoration of members who have belonged since installation at the University of California.

In addition to her private practice, Dr. Mary had been in charge of the health service for Indians in the Smith Valley, Coleville and Bridgeport areas for a number of years and has served on the Board of Directors of the Nevada State Heart Association.

TOWARD A NATIONAL HEALTH PROGRAM

Mr. HUMPHREY. Mr. President, I recently had the privilege of addressing the Wisconsin State Medical Society in Madison, Wis.

Wisconsin can be complimented for extending its progressive tradition to the health arena. It is a tribute to the State medical society and other providers that Wisconsin is ahead of the game in health planning and cost and quality control through professional standards review organizations and voluntary rate review.

More and more we are finding out that people's health is dependent not only on quality health care but also on economic status, education, housing, nutrition, sanitation, and the environment.

A Joint Economic Committee study has revealed startling new scientific evidence that directly relates heart disease, stroke, suicides, mental illness, alcoholism and kidney failure to the emotional stresses of unemployment.

Scientific evidence is also reinforcing the old adage that "an ounce of prevention is worth a pound of cure." Increased public awareness of the importance of prevention and early detection can avoid many catastrophic illnesses.

But more must be done.

The American Medical News recently reported that—

One dollar of every nine earned by the average American family now goes for health care and the share is rising.

In spite of this, the administration continues to propose cutbacks in programs which vitally affect the quality of life and health in our Nation.

The firm commitment of Congress to action and involvement in the health field is evident in its rejection of veto after veto of programs designed to meet the present and future health needs of the Nation—health revenue sharing and health services, the Child Nutrition Act, fiscal 1976 appropriations for the Department of Health, Education, and Welfare—to name a few.

Time and again, health appropriations are rescinded or deferred by the administration. But the Congressional Budget Control and Impoundment Act of 1974 has provided Congress with the means to deal with that.

This year's budget, as proposed by the administration, shows there will be no letup. Consolidation of health programs may give State and local governments more discretion and responsibility. But how can they exercise discretion and responsibility when they are being denied adequate funds to do the job in the first place?

Mr. President, I ask unanimous consent that the text of my remarks to the Wisconsin State Medical Society be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

I am pleased to be with you today at your annual meeting.

Seldom have members of the medical profession had so much at stake as in this Bicentennial Year. More and more, the problems facing the legislative branch are those which have a direct impact on your profession.

Effective legislation and efficient administration of national goals is dependent on the existence of a cooperative working partnership—not confrontation—between the Government and the private sector.

Your profession long has been a part of this cooperative relationship, and Wisconsin, in particular, has been in the forefront.

Members of the health profession have played a great role in the progress of the English-speaking peoples in North America as any other profession. From the first physician who arrived in Jamestown in 1607 to the Boston physician who gave his life for liberty at Breed's Hill, physicians contributed not only health to the colonists but political leadership as well.

Of the 56 men who signed the Declaration of Independence on that hot, humid July day in Philadelphia, four were practicing physicians. A fifth had studied medicine but never practiced.

Two physicians helped frame the Constitution and signed their names to the document that still serves as the foundation for our representative government.

There has been a physician member of every Congress, and Drs. Mason Cook Darling and Charles William Henney of this proud State are two of the 365 physicians who have served since the first Continental Congress in 1774.

The ninth President of the United States, William Henry Harrison of Ohio, studied medicine, and in at least six instances America's Chief Executive has chosen a physician to serve in his Cabinet. Ironically, three of these were Secretaries of War.

Dr. Samuel Freeman Miller was appointed to the U.S. Supreme Court by Abraham Lincoln, and 56 physicains have served as chief executives of our states, territories and possessions.

And there are hundreds more who have toiled in politics and government on all levels.

The medical community had made a lasting contribution to the endurance of America. In the true progressive tradition, Wisconsin, through the State Medical Society and other health providers, has led the way in health planning and other areas of concern. But your responsibility is far from over. You need to continue to offer your expertise as we consider the health needs of our people.

Ralph Waldo Emerson wrote:

"The first wealth is health. Sickness is poor spirited and cannot serve anyone; it must husband its resources to live. But health or fulness answers its own ends, and has to spare, runs over, and inundates the neighborhoods and creeks of other men's necessities."

We need to remember that our efforts here often "inundate the neighborhoods and creeks of other men's necessities." Medicine and the provision of health care have become a major focus of debate in our country and in almost every other industrialized society of the world.

Part of the reason lies in the basic desire to improve the quality of one's own life. Issues of personal accountability, social responsibility and the increasing awareness of limits on our resources in all sectors of the economy also contribute to the attention directed to the health industry.

Effective health delivery systems, adequate health manpower personnel, quality care at affordable rates, prevention of disease rather than just treatment also are being debated with growing insight and involvement by concerned professionals such as yourselves and consumers, politicians and scholars.

Let's take a look at some of these issues.

Three decades of intensive biomedical research have provided a more rational basis for certain elements of medical practice. But although disease patterns have changed significantly in the U.S., in part because of these biomedical advances, there has been little improvement in life expectancy for adults since the 1920's.

In spite of our efforts, effective means have not been found for coping with stubborn complex chronic and social illnesses that now are predominant in the economically advanced countries.

Dr. Theodore Cooper, U.S. Assistant Secretary for Health, said recently:

"It is one of the great and sobering truths of our profession that modern health care probably has less impact on the health of the population than economic status, education, housing, nutrition and sanitation."

Startling new scientific evidence directly relates heart disease, strike, suicides, mental illness, alcoholism and kidney failure with the stresses of unemployment.

Scientific evidence is reinforcing the old adage that "an ounce of prevention is worth a pound of cure."

Consider that cancer and heart disease are

not "caught" like a cold. Instead we are finding that both arise after decades of abuse to the body. Years of heavy smoking or drinking, high-fat diets, obesity and lack of regular exercise all play a role. Yet these causes can be moderated or eliminated without expensive medical treatment.

Many children born with seriously disabling conditions are victims of inadequate prenatal care and lack of basic screening for disorders curable if detected early. In the last year over one-third of all pregnant women failed to receive proper prenatal care, endangering not only their lives but those of their babies as well.

The National Association of Retarded Citizens estimates that it is possible to prevent 50 percent of the cases of mental retardation by prenatal and postnatal infant care, proper diet, and testing for metabolic disorders.

Money and efforts devoted to prevention and cure will reap dividends many times over the investment.

The cost of disease in one week is a great deal more than the budget of HEW in one year.

More than dollars and cents, we need to look at the human toll that disease takes—the suffering of the afflicted, the anguish of loved ones.

More and more we are understanding that a healthy man is a productive one—one who will earn and return many more dollars than a sick one. A healthy child is our investment in the future. Increased public awareness of the importance of prevention and early detection can avoid many catastrophic illnesses.

Therefore, jobs, education, nutrition, housing, child care, community development, recreation, environment—all are components of a national health program.

Recently revised federal health planning legislation is a further response to the widely felt concern over the inadequacies of the nation's health care delivery system in meeting the health needs of the population.

Billions of dollars are being spent on health care and services nationwide. But rural areas and the urban ghetto still are badly underserved. Health care costs are rising faster than the overall cost of living. And, poor management and organization of health care systems in many areas have resulted in inefficient and ineffective use of scarce resources.

Wisconsin can be proud that it is one of the more forward-looking States in health planning. Your planning agencies all were operative before health planning legislation became a reality for the nation as a whole.

Continued concern about the maldistribution of medical personnel has led to new legislation in the health manpower field.

Recently released statistics show that the United States in 1973 had one doctor for every 562 persons. Although this was a 64 percent improvement since 1950, our medical specialists continue to be unevenly distributed, with some states having more than 1000 persons per doctor and other states with 400 per doctor.

But regardless of the planning, regardless of the manpower, Americans are saying more and more that medical services are unaffordable.

The average American spends more than one month's pay for health care, a considerably higher total than is spent by the average citizen of any other industrial country in the world.

Last year, the total health cost in the United States was $118.5 billion, or $547 per person. While the Consumer Index rose 85.6 percent in the last 15 years, health costs tripled and now represent 8.3 percent of our gross national product.

Many families find proper health care an impossible economic burden. Over 40 million Americans have no health insurance at all, and millions more have no insurance because they are unemployed.

Two-thirds of all Americans have no insurance coverage of doctors' office visits. And almost no one is covered for preventive services and routine care for healthy children.

For some people this means making choices they should not be forced to make.

Regrettably, many budget-conscious families will sacrifice important medical services which must be paid for out-of-pocket.

Failure to cover a $15 doctor's visit for a routine check-up can result in needless suffering, hospitalization and medical expenses. The result is that illnesses go undetected, and early treatment that could prevent permanent damage never is received.

Again, Wisconsin's health providers can be proud of their efforts to keep costs down. Voluntary rate review for hospitals, and fully funded and hard-at-work professional standard review organizations are only two examples of the concern you have shown for the problems of cost and quality control. But more must be done.

As you know, the question of national health insurance still is unresolved. Congress has before it a number of proposals, some of which are more comprehensive than others:

The Health Security Act is the most comprehensive and stresses benefits for preventive services. Although it is often criticized for costing over $100 billion, the nation spent $118 billion on health care—or rather, sickness care—in 1975.

The Long-Ribicoff bill covers catastrophic illnesses, provides medical assistance for the poor and medically needy, and establishes a voluntary program for private insurance to cover basic benefits.

The National Health Care Act is a voluntary approach and state insurance departments would be the administrators.

The Ullman proposal would set up a new Department of Health, which would contract with insurance companies and non-profit health care corporations for medical services to poor and aged.

The Administration's proposal calls for catastrophic health insurance for those on Medicare. It is financed by increasing other Medicare costs and would not help the 87 percent of our nation's citizens not on Medicare.

The American Medical Association proposal mandates employers to offer qualified private health insurance to employees and families. This has only been introduced in the House.

No one today can predict the exact details of the plan which will be enacted. But one thing is certain. We will have a health program which will go well beyond anything the government has done in the health field in the past.

I challenge you to become involved in this great debate. Learn about the alternative proposals and actively participate in the debate.

There is one more thought I would like to leave with you.

The firm commitment of Congress to action and involvement in the health field is evident in its rejection of veto after veto of programs designed to meet the present and future health needs of this nation—Health Revenue Sharing and Health Services, Child Nutrition Act, Fiscal 1976 Appropriations for the Department of Health, Education and Welfare, to name a few.

Time and time again, health appropriations are rescinded or deferred by the Administration. But the Congressional Budget Control and Impoundment Act of 1974 has provided Congress with a tool to deal with that.

This year's budget, as proposed by the Administration, shows there will be no let-up. The President is advocating the consolidation of 59 programs, 16 of which are important health prgrams.

The new consolidations may give State and local governments more discretion and more responsibility. But how can they exercise discretion and responsibility when they are being denied adequate funds to do the job in the first place?

Program after program has been systematically slashed.

For instance:

Community Health Centers: reduced 25% to $155,190,000, from fiscal 1976 appropriation of $196,648,000;

Maternal and Child Health: reduced 33% to $211,422,000, from $321,908,000;

Family Planning: reduced 20% to $79,435,000, from $100,615,000;

Migrant Health: reduced 20% to $19,200,000, from $25,000,000;

Total Health Services: down almost 30% to $647,558,000, from $934,614,000;

Biomedical Research at the National Institutes of Health shows a slight decrease overall from fiscal 1976 appropriation of $2.1 billion, to 1977 budget request of $2.0 billion;

The 1977 National Cancer Institute budget request is $669,507,000, compared to an appropriation of $744,484,000 in 1976;

National Heart-Lung Institute request for 1977 is $330,520,000, compared to 1976 appropriation of $349,393,000;

To the Administration's credit the National Institute of Environmental Health Sciences request is $43,898,000 in fiscal 1977, compared to $36,035,000 this past year—an increase of about 18%;

Alcohol, Drug Abuse and Mental Health shows a 33% decrease overall in 1977 budget to $418 million, from a 1976 level of $580 million;

Health resources, including manpower, is down an incredible 40%;

In addition, education funds are slashed 11 percent; community development, slashed 8 percent; manpower training, slashed 27 percent.

How are we going to provide a better life for our citizens—better living conditions, better health, better nutrition, better education, and jobs—if we continue to retreat, retrench and reduce?

We need to work together as a partnership if we are to achieve our goals. The system relies heavily on experts and concerned citizens such as yourselves to set priorities, to examine the results on a continuing basis, to realign these priorities as progress is made, and to look to the future.

You can make a difference if you take the risk of becoming informed and involved.

In closing I want to remind you of what Victor Hugo said.

"The future has several names; for the weak, it is the impossible. For the faint-hearted, it is the unknown. For the thoughtful and valiant, it is ideal. The challenge is urgent. The task is large. The time is now."

FINANCIAL STATEMENT BY SENATOR LOWELL WEICKER, JR.

Mr. WEICKER. Mr. President, in the interest of full financial disclosure, I ask unanimous consent that the joint tax return for 1975 and the joint statement of assets and liabilities of my wife and myself, as of December 31, 1975, be printed in the RECORD.

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

U.S. INDIVIDUAL INCOME TAX RETURN

Name: Lowell P. and Marie L. Weicker Jr., Round Hill Road, Greenwich, Conn.

Social security number, 079-26-8422.

Spouse's social security no. 078-28-7717

Occupation: U.S. Senator; spouse's, Homemaker.
Exemptions: Scott, Gray, Brian Bianchi.
9. Wages, salaries, tips, and other employee compensation, $43,025.
10a. Dividends, $5,508; 10b Less exclusion, $200; balance, $5,308.
11. Interest income, $4,755.
12. Income other than wages, dividends, and interest, $12,095.
13. Total, $65,183.
14. Adjustments to income, $2,129.
15. Subtract line 14 from line 13, $63,054.
16a. Tax, from tax rate schedule X, Y, or Z, $5,200.
b. Credit for personal exemptions, $150.
c. Balance, $5,050.
17. Credits, $7.
18. Balance, $5,043.
19. Other taxes, $822.
20. Total, $5,865.
21a. Total Federal income tax withheld, $10,676.
25. Amount refunded, $4,811.
29a. Net gain or (loss) from sale or exchange of capital assets, $1,000.
31a. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc., $2,695.
35. Other (state nature and source—See page 9 of instructions), (see statement 5), $10,400.
36. Total, $12,095.

PART II.—ADJUSTMENTS TO INCOME

39. Employee business expense, $2,129.
42. Total, $2,129.

PART III.—TAX COMPUTATION

43. Adjusted gross income, $63,054.
44 (a) If you itemize deductions, $36,742.
45. Subtract line 44 from line 43, $26,312.
46. Multiply total number of exemptions claimed on line 7, by $750, $3,750.
47. Taxable income, $22,562.

PART IV.—CREDITS

50. Foreign tax credit, 7.
54. Total, 7.

PART V.—OTHER TAXES

59. Self-employment tax (attach Schedule SE), 822.
63. Total, $822.

SCHEDULES A AND B—ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME

Medical and dental expenses

1. One half (but not more than $150) of insurance premiums for medical care, $150.
10. Total, $150.

Taxes

12. Real estate, $5,606.
13. State and local gasoline, $128.
14. General sales, $494.
15. Personal property, $55.
16. Other, sales tax—auto, $317.
17. Total, $6,600.

Interest expense

18. Home mortgage, $7,274.
19. Other, see statement 8, $20,355.
20. Total, $27,629.

Contributions

21a. Cash contributions, $587.
24. Total contributions, $587.

Miscellaneous deductions

33. Other, see statement 9, $1,776.
34. Total, $1,776.

Summary of itemized deductions

35. Total medical and dental, $150.
36. Total taxes, $6,600.
37. Total interest, $27,629.
38. Total contributions, $587.
40. Total miscellaneous, $1,776.
41. Total deductions, $36,742.

DIVIDEND INCOME

1. See statement 2, $5,657.
4. Nontaxable distributions, $149.
6. Dividends before exclusion, $5,508.

INTEREST INCOME

7. See statement 3, $4,755.

SHORT-TERM CAPITAL GAINS AND LOSSES

Assets Held Not More Than 6 Months

1. See statement 7, $155.
2. Enter your share of net short-term gain or (loss) from partnerships and fiduciaries, —$300.
3. Enter net gain or (loss), —$145.
4. Short-term capital loss carryover attributable to years beginning after 1969, —$183.
5. Net short-term gain or (loss), —$328.

LONG-TERM CAPITAL GAINS AND LOSSES

Assets Held More Than 6 Months

6. See statement 7, —$2,566.
9. Enter your share of net long-term gain or (loss) from partnerships and fiduciaries, $49.
11. Net gain or (loss), combine lines 6 through 10, —$2,517.
12(b). Long-term capital loss carryover attributable to years beginning after 1969, —$11,315.
13. Net long-term gains or (loss), combine lines, —$13,832.

SUMMARY OF PARTS I AND II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or (loss) here, —$14,160.
16a. 50% of amount on line 13, —$7,244.
16b. (iii) Taxable income, as adjusted, —$1,000.

INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, SMALL BUSINESS CORPORATIONS

See statement 6, $10.
See statement 4, $2,685.
1 Totals, $2,695.

COMPUTATION OF NET EARNINGS FROM NONFARM SELF-EMPLOYMENT

Regular method

5. Net profit of (loss) from: (e) other, see statement 5, $10,400.

Nonfarm optional method

9(a). Maximum amount reportable, under both optional methods combined (farm and nonfarm), $1,600.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

12. Net earnings or (loss): (b) from nonfarm, $10,400.
14. The largest amount of combined wages and self-employment earnings subject to social security or railroad retirement taxes for 1975 is, $14,100.
16. Balance, $14,100.
17. Self-employment income, $10,400.
18. Self-employment tax, $822.

TAXABLE INCOME FROM SOURCES OUTSIDE THE UNITED STATES

A. Canada, (a) Dividends, $73.

FOREIGN TAXES PAID OR ACCRUED AND COMPUTATION OF FOREIGN TAX CREDIT

1. Credit is claimed for taxes paid: Date paid 1975.
2. Type of tax, Inc.
3. Statute Imposing Tax, income tax.
4. Foreign taxes paid or accrued, (a) dividends, $7.
4. Foreign taxes paid or accrued, (d) Conversion Rate (Attach schedule) 1.0000.
(e) Dividends, $7.
(h) Total Foreign Taxes Paid or Accrued (Add cols. (e), (f), and (g)), $7.
7. Total Foreign Taxes (Column 4(h) plus column 6 less column 5), $7.
8. Taxable Income or (Loss) from Sources Outside the U.S. (From Schedule A, column 4), $73.
9. Total Taxable Income from All Sources (Before deduction for personal exemptions), $26,312.
10. Column 8 Divided by Column 9, 0.00277.
11. Total U.S. Income Tax Against Which Credit is Allowed (After credit for personal exemptions, but before other credits), $5,050.
12. Limitation (column 10 multiplied by column 11), 14.
13. Credit (Column 12 or column 7, whichever is less), 7.
1. Travel expenses while away from home on business (number of days 235):
(a) Airplane, boat, railroad, etc., fares, $3,620.
(b) Meals and lodging, $3,000.
Total travel expenses, $6,620.
4. Employee expenses other than traveling, transportation, and outside salesperson's expenses to the extent of reimbursement, $10,726.
5. Total of lines 1, 2, 3, and 4, $17,346.
6. Less: Employer's payments for above expenses (other than amounts included on Form W-2), $15,217.
7. Excess expenses, $2,129.

CAPITAL LOSS CARRYOVERS

Section A.—Short-term capital loss carryover

1. Enter loss shown on your 1974 Schedule D, $1,183.
3. Reduce any loss on line 1 to the extent of any gain on line 2, $1,183.
4. Enter amount shown on your 1974 Form 1040, line 29, $1,000.
5. Enter smaller of line 3 or line 4, $1,000.
6. Excess of amount on line 3 over amount on line 5, $183.

Section B.—Long-term capital loss carryover

8. Enter loss from your 1974 Schedule D, $11,315.
10. Reduce any loss on line 8 to the extent of any gain on line 9, $11,315.
12. Excess of amount on line 10 over amount on line 11, $11,315.

STATEMENT 2—DIVIDEND INCOME

Qualifying

(H) T/U/W Theodore Weicker, (H) 13-6083727	$818
(H) T/U/A Lowell P. Weicker (H) 13-6067993	791
(H) T/U/A Lowell P. Weicker (H) 13-6083709	731
(H) T/U/A Lowell P. Weicker (H) 13-6029250	1,245
(W) T/U/A Benjamin Joy (W) 04-6007191	636
(H) W Ventures 06-6132037	84
(H) Syntex Corp	9
(H) Caterpillar Tractor	29
(H) Haliburton Co	20
(H) Pacific Power & Light	17
(H) Maryland Cup	118
(H) Colonial Penn Group	40
(H) Friendly Ice Cream	22
(H) Hewlett-Packard	5
(H) IBM	65
(H) National Airlines	100
(H) Merck & Co	70
(W) Heublein Inc	176
(W) Friendly Ice Cream	15
(W) American Express	75
(W) General Signal	101
(W) American Brands	268
Total	5,435

Nonqualifying

(H) Massey Fergusion	73

Nontaxable

(H) Pacific Power & Light	149

Statement 3—Interest income

T/U/A Lowell P. Weicker 13-6067993	$3,017
T/U/A Lowell P. Weicker 13-6083709	696
Putnam Trust Co	31
Putnam Trust Co	33
ARA Services 4⅝ June 15, 1996	116
Heublein Inc. 4½ 1997	360
Maryland Cup 5⅛ 1994	359
Zapada 4¾ 1988	143
Total interest income	4,755

Statement 4—Estates and trusts income

T/U/W Theodore Weicker 8-12-46, 13-6083727 C/O John H. Howe, 129 Park Avenue, Plainfield, N.J. 07060	$32
T/U/A Lowell P. Weicker T-1270, 13-6029250 Chemical Bank, 277 Park Avenue, New York, N.Y. 10017	2,261
T/U/A Benjamin Joy 1954, Trust 04-6007191 Fiduciary, Trust Co., 10 Post Office Square, Boston, Mass. 02105	392
Total	2,685

Statement 5—Miscellaneous income

Honoraria: Subject to SE tax, $10,400.

Total miscellaneous income, $10,400.

Statement 6—Partnership income

W Ventures 06-6132037, C/O Richard Webb, 71 Lewis Street, Greenwich, Conn. 06830, taxable income, $10.

STATEMENT 7.—LONG- AND SHORT-TERM CAPITAL GAINS AND LOSSES

	Date acquired	Date sold	Sales price	Cost or other basis	Gain or loss: Short term	Gain or loss: Long term
50 shares Garfinkel Brooks	Apr. 5, 1972	Feb. 25, 1975	528	1,454		−926
25 shares Garfinckel Brooks	July 12, 1972	do	257	636		−379
50 shares Garfinckel Brooks	June 13, 1972	do	528	1,257		−729
62 shares Marriott Corp	Feb. 14, 1972	do	667	1,941		−1,274
22 shares Marriott Corp	Mar. 3, 1972	do	236	700		−464
Do	June 26, 1972	do	236	752		−516
23 shares Marriott Corp	Nov. 12, 1973	do	247	516		−269
25 shares Hewlett Packard	Jan. 28, 1972	Apr. 29, 1975	2,462	1,267		1,195
Do	May 4, 1972	do	2,462	1,422		1,040
20 shares Xerox	Sept. 12, 1974	June 24, 1975	1,352	1,616		−264
5 shares Xerox	Oct. 4, 1974	do	338	318		20
100 shares Tiger International	Feb. 25, 1975	Mar. 7, 1975	1,043	888	155	
Total capital gains or losses					155	−2,566

Statement 8—Itemized interest expense

Putnam Trust Co	$2,126
Putnam Trust Co	1,146
Putnam Trust Co	618
Union Trust Co	779
Kennedy Bank	159
Burke & Herbert	1,673
John Dean	2,400
Fed S. & L. Bradenton, Fla	3,131
1st Fed S. & L. Alexandria, Va	8,255
Senate Employees Credit Union	68
Total other interest expense	20,355

STATEMENT 9—ITEMIZED MISCELLANEOUS DEDUCTIONS

Tax preparation fees, $300.
Safe deposit box, $12.
Other business expense: entertainment, $1,066.
Gifts, $218.
Insurance, $70.
Office supplies and expense, $110.
Total, $1,464.
Total miscellaneous other deductions, $1,776.[2]

STATEMENT 10—RECEIPTED CASH CONTRIBUTIONS

Charities qualifying for 50 percent limitation:
Church, $200.
Capitol page school, $6.
Round Hill Fire Co., $100.
Care, Inc., $100.
Mansfield Training School, $25.
Theatre benefit—allocated, $136.
Miscellaneous organized charities, $20.
Total receipted cash contributions to charities qualifying for 50 percent limitation, $587.[1]
Total receipted cash contributions, $587.

WIENDIECK & CO.,
CERTIFIED PUBLIC ACCOUNTANTS,
Greenwich, Conn., April 5, 1976.

Hon. LOWELL P. WEICKER, Jr.,
Senator from Connecticut,
Washington, D.C.

DEAR SENATOR WEICKER: Pursuant to your request we have prepared the enclosed joint statement of assets and liabilities for you and Mrs. Weicker as of December 31, 1975. Where applicable this statement is based on estimated values as more fully explained in the accompanying notes.

The items contained therein were determined in accordance with generally accepted auditing standards and the application of such other auditing procedures as we considered necessary in the circumstances.

In our opinion the aforementioned statement presents fairly your assets and liabilities at December 31, 1975.

Respectfully submitted,

WIENDIECK & CO.

SENATOR AND MRS. LOWELL P. WEICKER, JR., STATEMENT OF ASSETS AND LIABILITIES, DECEMBER 31, 1975

ASSETS

	Value
Cash	$6,081
Marketable securities (Schedule 1 and Note 1)	76,411
Cash value of life insurance	3,070
Interest in W-Ventures, partnership (Investment Club)	3,700
Automobiles	6,000
Household furnishings, paintings, jewelry, personal property	72,000
Accumulated deductions for Civil Service retirement	23,461
REAL ESTATE	
Residence (Greenwich, Conn.) pledged on mortgage note	250,000
Residential property (Alexandria, Virginia) pledged on mortgage note	135,000
Condominium (Colonial Beach and Tennis Club, Sarasota, Florida) pledged on mortgage note	52,000
Contingent asset (Notes 2 and 3).	
Refund of income taxes	4,811
Total assets	632,534

LIABILITIES

Accounts payable	$10,797
15% tideover checking account loan, (monthly payments of $417 plus interest)	4,428
7½% demand loans (monthly interest-voluntary reductions) (Note 1)	49,000
7½% mortgage, maturing in 1998, secured by residence (annual amortization and interest payments amount to $8,868)	96,114
8¾% mortgage, maturing in 2004 secured by residential property in Alexandria, Virginia (annual amortization and interest payments amount to $8,969)	93,895
8% mortgage maturing in 1998 secured by Condominium at the Coloney Beach and Tennis Club, Sarasota, Florida (annual amortization and interest payments amount to $3,979	41,871
9½% 90 day renewable note	8,000
8% promissory note due May 1, 1979 secured by residential property in Alexandria, Virginia	30,000
8% demand loan	23,500
9.6% employees credit union loan	4,303
Total liabilities	361,908
Excess of Assets over Liabilities	270,626

Marketable securities

Stock:	*Shares*	*Market value*
Ace Publishing Co	384	$230
American Brands, Inc	100	3,863
American Express Co	100	3,675
Caterpillar Tractor Co	30	2,093
Colonial Penn Group Inc., Common	100	2,863
Friendly Ice Cream Corp	525	12,469
General Signal Corporation, Common	133	4,555
Halliburton Co	25	3,656
Harnischfeger Corp	145	4,060
Heublein, Inc	160	7,480
International Business Machines	10	2,243
Maryland Cup Corporation, Common	225	3,825
Massey Ferguson Ltd	100	2,075
Merck & Co., Inc., Common	50	3,463
National Airlines, Common	200	2,150
Pacific Power & Light	100	2,038
Syntex Corp	40	1,205
Subtotal		61,943

Bonds:	*Face value*	
A.R.A., Services, Inc. 4⅝% Conv. Deb. due 1996	$3,000	1,935
Heublein, Inc. 4½% Conv. Deb. due 1997	8,000	6,320
Maryland Cup 5⅛% Conv. Deb. due 1994	7,000	4,480
Zapada 4¾% Conv. Deb. due 1988	3,000	1,733
Subtotal		14,468
Total		76,411

NOTES TO THE STATEMENT OF ASSETS AND LIABILITIES

Note 1—Marketable Securities: The amounts shown represent the market value at December 31, 1975 as represented by the quoted closing or latest bid prices. All of these securities were pledged as collateral for the demand loans as of December 31, 1975.

Note 2: Senator Weicker is a beneficiary of certain trust funds which produced an income of $10,750 in 1975. In one instance he has the power of appointment but cannot inherit the principal. In connection with the other trusts, he does not have the power of appointment. One trust fund permits him to take down 10% annually which amounted to $11,500 in 1975. The value of this trust on December 31, 1975 was $111,125.

Contingencies within certain other trust preclude the actuarial determination of a present value. He is not a trustee and has no control over investments of any trust.

Note 3: Mrs. Weicker is a beneficiary of a trust established for her mother and aunt which provides income of roughly $1,000 a year to her. Upon her mother's death, Mrs. Weicker would inherit one-third of her mother's interest. As of December 31, 1975, the value of Mrs. Weicker's one-sixth share amounted to approximately $26,500.

BRITISH AMBASSADOR RESPONDS TO MEDIA CRITICISM

Mr. EAGLETON. Mr. President, on March 25, 1976, I inserted the transcript of the television special, "The Second Battle of Britain," and also a Washington Post article. Both were critical of England and pessimistic about her future.

I have recently received a letter from the British Ambassador to the United States, the Honorable Sir Peter Ramsbotham, taking exception to the theme of the television show and replying to specific allegations contained in the special.

Out of a sense of fairness and objectivity, I ask unanimous consent that Ambassador Ramsbotham's letter to me, along with an article from the Christian Science Monitor, be printed in the RECORD.

I also ask unanimous consent that a letter to my office from CBS News concerning the printing of "The Second Battle of Britain" be printed in the RECORD.

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

BRITISH EMBASSY,
Washington, D.C., April 5, 1976.

Hon. THOMAS F. EAGLETON,
U.S. Senate, Washington, D.C.

DEAR SENATOR: On 25 March you made a statement in the Senate about Great Britain that you said was "rather pessimistic". You described as "excellent" the two texts on which the statement was based: the first was of the CBS news special "The Second Battle of Britain", and the second of an article in the Washington Post.

I would not normally respond to criticism of Britain in the media. We take the rough with the smooth. But the texts concerned were so one-sided, so selective and, in the case of the CBS film, so full of inaccuracies, that it would be a disservice not only to my country, but to the Congress before whom you have placed this material, if I failed to respond. I fear that members of Congress and, through them, the people of the United States will be seriously misled if the CBS transcript is left to stand. There are many important factors in the difficult situation facing Britain that were wholly ignored.

The view of Britain as threatened with destruction by a financial crisis, its people oblivious to any common cause and faced with the awesome prospect of anarchy, is simply not borne out by the facts. Some of these, I am afraid, were traduced in the CBS film; a point that both the Christian Science Monitor and the Wall Street Journal have since noted. The film, shown in March 1976, was made in the Summer of 1975 and contained film clips of trade union demonstrations three years old! While it was updated so as to mention the Prime Minister's resignation on 16 March, it was not updated on any of the vital facts that have since occurred and which invalidate much of its theme.

For instance, it made no mention of the striking success of the British Government's plan to defeat one of the greatest economic dangers to any civilized society, inflation. Wage restraints introduced last July (eight months before the film was eventually shown), with the full co-operation and support of the Trades Unions, have had dramatic effects. The inflation rate has been cut from 30% to 14% in 6 months and we are on course to reduce it to 10% or below by the end of the year. So much for the claim that inflation in Great Britain is out of hand. These restraints have meant the acceptance of cuts in their real earnings by British workers. So much for the assertion that our Trades Unions guarantee that their members' wages are kept ahead of the cost of living. And this in a year when the number of days lost through strikes was halved from 1974, and amounted to the equivalent of about half a day's public holiday.

Subsequently, in November 1975, a new industrial strategy was announced, based on the same consensus between Government, management and labour; and dedicated to the regeneration of our industry at the expense, if necessary, of social objectives. So much for the assertion that the people of Britain or their representatives in government, trades unions or industry, are oblivious to any common cause. They have demonstrably made common cause, successfully, against inflation, unemployment and industrial decline.

Misleading notions abound in the CBS film. Mr. Reid, the only British Trade Unionist interviewed, was described as a Trade Union official and a dedicated Communist. Not only is he atypical; but since last summer (when the film was made) he has been defeated by an overwhelming majority in his bid for election to the National Executive of the Engineering Workers Union (he incidentally resigned from the Communist Party four months ago!). It is the moderates who have been winning Trade Union elections all over the country.

The film stated, incorrectly, that Britain's exports "cannot be delivered in time" and are "twice the price". In 1975 Britain, in fact, increased her share of world trade in the face of the fiercer competition that the recession stimulated; and the *volume* of our exports increased substantially over the last few months. Our 1974 balance of payments deficit was halved in 1975. It is a serious, and potentially damaging, distortion to suggest that a financial crisis is threatening to "destroy" Great Britain. There is no evidence of this, whatsoever.

Successive British governments have for thirty years designed policies to make advances in public services and social development programmes, with the specific purpose of reducing what you described as "the almost unnegotiable chasm between the privileged and the poor". Despite some relics of an older class system, this gap is today narrower in Britain than perhaps anywhere else in the Western democracies. It is hard to quantify the value of a society, such as ours, that categorically rejects extremism either on the right or the left (the reason that there are no Fascist or Communist members of Parliament is that no-one will vote for them); that needs hardly any armed policemen, because violence is not the menace it is in some other countries; that has few hints of corruption; that shows a high regard for the environment; and that is rooted in history and traditions whose value has been proved many times over. The CBS film, which purported to be a general description of Britain, and which was the creation of one reporter, totally ignored or misrepresented these fundamental facets of our society.

But today the British people recognise that the rising cost of public service cannot be sustained unless it is matched by growth of manufactured output. A shift in priorities away from social objectives and towards industrial regeneration and a more vigorous, profitable private sector, is now the declared policy of the Government—a policy backed up by large cuts in planned public expenditures over the next few years. We are confident that we can achieve these industrial objectives.

Among other central features of the British situation ignored in the CBS film is North Sea oil. Dismissed by our critics as an oversold panacea, it is, in fact, expected to benefit our balance of payments by 4–6 billion dollars in 1980, when we shall be self-sufficient in this vital resource—the only major industrial country to achieve that enviable position.

CBS showed only old towns. There are many strikingly successful new ones built since World War II—and built with vision and a high regard for human and social values. The quality of life in Britain remains, I am glad to reassure you, high—including our environment, overall standards of living, scientific and technological invention, cultural riches. All are in good shape.

I do not dispute that we have major difficulties to cope with in Britain. We have faced inflation, rising unemployment, declining output and a considerable external deficit. There are serious and difficult constitutional strains in Scotland and Northern Ireland. But for each negative there is also a positive, arising out of a government policy which is stated with clarity, pursued with determination and supported by a strong consensus amongst the public; and it is the positive that anyone who wishes to form an overall, up-to-date, opinion about Great Britain must consider: it is the positive which affects the thinking of those Americans who currently have some $13 billion of their money invested in my country.

There are also wider factors than the purely economic. The question was asked if the new Prime Minister can inspire the British to defend their nation against the awesome prospect of anarchy. This rhetorical question will simply not be understood in Britain. No serious or responsible observer would consider it in any way relevant to our problems. Parliamentary democracy and the rule of law remain absolutely central in our way of life, and neither is under serious challenge. The orderly transfer of power we are now seeing from one Prime Minister to another, by an established electoral process, is merely one illustration of the essential stability of British institutions. The CBS film ignored the serious, dedicated and broadly successful efforts being made, over a wide spectrum of social and economic affairs in Britain, to grapple with the complex and difficult issues facing modern industrial society. It is pure fiction to suggest that the British people are attracted by tyranny, or what Mr. Safer described as "just about any kind of authoritarian system". Of course we are not seeing the end of democracy in Britain.

I am glad you recognise that the British people have not lost their unmatched inner strength: I do not think they have lost their way or their faith either. Nor should others lose their faith in us. No good purpose is served, however, by the widespread dissemination of exaggerated and misleading descriptions of our problems.

I am sincerely,

PETER RAMSBOTHAM.

CBS "SECOND BATTLE" DRAWS RETURN FIRE IN BRITAIN

(By Francis Renny)

LONDON.—Since British television is always sniping disparagingly at the United States, it was only fair that America should let off a salvo in return. The Columbia Broadcasting System's documentary, "The Second Battle of Britain," should even up the score.

Shown in Britain two days after its American transmission, the message of Canadian-born correspondent Morley Safer is that the battle for economic survival has to all intents and purposes been lost. Britons, we were told, "are a people in the throes of a spiritual dilemma for which there seems to be no cure. . . ."

Fair enough. Even true enough. But the evidence shown was hackneyed and stale. There were those all-too-familiar pictures of condemned terraces in Glasgow and Tyneside, strangely described as "those parts of Britain you never see." What Mr. Safer never saw, apparently, was Cumbernauld, Milton Keynes, or Hemel Hempstead—any of the new towns or housing estates or factories.

His commentary rolled on across what he chose to label "the world's most expensive banana republic." Banana? Republic? Yes, but don't ask me why. There followed some smart-alecky cutting between a soundtrack of doomladen news headlines and shots of senior citizens on beaches, butlers polishing the silver: the implication being that none of them cared.

Viewers who complain about the sneakiness of British TV should just see what the Americans can do.

On we went to the playing fields of Eton and the Royal Enclosure at Ascot. Where would American documentarymakers be without them? Where would they hang such dubious hyperbole as "at the top of the heap, the rich. With them there is no virtue quite like idleness." Then how did they become rich? Shots of the Lord Mayor's show accompanied a mysterious reference to "quirky posturings and the outward show of civility."

Inwardly, Mr. Safer implies, the British are really uncivil. Perhaps the oddest assertion of all was that Britain now was so desperate it was "thinking of just about any kind of authoritarian system" as an alternative, an assertion for which Mr Safer had to admit he had no more evidence than a hunch.

Following the transmission by the BBC, Mr. Safer was ponderously confronted in a London studio by two eminent professors, a pro-government businessman, and Hugh Scanlon, the Engineering Union leader. Mr. Scanlon said he felt very, very angry: "I never saw a greater perversion of the real Britain than that film." Two reasons for such anger were that it never once mentioned the success of the £6 ($12) pay limit and interviewed none but extreme rightists or leftists.

Mr. Safer's defense gave the whole game away instantly. "Of course, it's exaggerated, because television exaggerates." One was reminded of the American sociologist George Homans: "To overcome the inertia of the intellect, it is sometimes more important that a statement be intersting than that it be true."

The interrogating panel sometimes made poor Mr. Safer look like a grasshopper pursued with a sledgehammer. Didn't he know, he was asked, that the rate of increase in productivity was actually higher in Britain than the United States?

Mr. Safer said statistics could prove anything—what about the pound sterling at $1.90? Then he returned to his most valid, if subjective, theme: "I have a feeling that people have lost the sense of controlling their own fates."

This reporter has always felt that most of us take television far too seriously. And may-be this reporter has been wandering from his own precept. The program was just good, sensational, rather out-of-date pseudo-research.

All the same, we were told it took CBS nine months to make; and for all Britain's idleness, any British network could have done the job in one-third the time. Only two nights earlier, a British program about how Snakey, the wheelmakers, were trying to compete in Europe with 30-year-old equipment made most of Mr. Safer's points far more effectively. And there wasn't a beefeater in sight.

NEW YORK, N.Y., *March 30, 1976.*

Mr. BRIAN ATWOOD,
D.O.B., Room 6235,
Washington, D.C.

DEAR MR. ATWOOD: As per our telephone conversation last week, permission has been granted for Senator Eagleton to publish in a Congressional Record the transcript of "The Second Battle of Britain" as long as it carries the copyright notice 1976, CBS, Inc. Although I told you this on the phone, I thought you might like to have it in writing.

Thank you and the Senator for your interest in our broadcast.

Sincerely yours,

MAY M. DOWELL,
Director of Special Projects.

SIMON INSISTS IT CAN BE DONE

Mr. GARN. Mr. President, the debate over whether Government ought to attack the problem of unemployment or the problem of inflation first continues to range, largely within the confines of Congress and in the Eastern Establishment press. As far as I can see, the people in the country as a whole have spoken decisively, as all of us should be able to testify from our mail. People are far more concerned about inflation than unemployment, because they recognize in their hearts that there are no solutions to unemployment as long as inflation remains a problem.

Secretary of Treasury William Simon is one governmental figure who has seen this truth clearly, and who has gone out of his way to argue for it in the committees of Congress and in the pages of the press. I would like to summarize briefly his argument as carried in a recent letter to the editor of the Washington Star.

The Star had charged Simon with unwarranted optimism on inflation, and the Secretary was defending himself. In his response, he pointed out that he was not saying the battle against inflation would be easy, only that it was essential. He cited six things which Government could and must do to bring inflation under control. They were first, decrease the rate at which Government expenditures are increasing; second, balance the budget over time; third, stabilize the rate of monetary growth, preferably at some level justified by the rate of increase in output of goods and services; fourth, eliminate the bureaucratic interventions into our economy which stifle initiative and invention; fifth, restore a climate receptive to capital investment.

Mr. Simon made a sixth point, related to international economic stability, and while it was less clear as a policy objective, I take it to mean that we should avoid imposing trade restrictions and embargoes, and that we should avoid erratic monetary policy which upsets international exchange rates.

Secretary Simon pointed out, Mr. President, that these are objectives which government policy can address directly, and constitute the substance of our job. In short, these are the things we should be doing, instead of expanding the scope of governmental action into every nook and cranny of the social life of the Nation. He suggests, and I quite agree, that if we do these things properly, the rest of it will take care of itself.

Is ask unanimous consent that Secretary Simon's letter be printed in the RECORD.

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

LETTERS TO THE EDITOR—SIMON INSISTS IT CAN BE DONE

Your editorial on "Inflationary optimism" (March 24) misrepresents what I actually said on the subject of inflation. My statements were not "foolishly complacent," motivated by "election-year enthusiasm" or "premature claims of victory." What I actually said was that it is possible to get a 2-3 percent rate of inflation in three years if we adhere to the administration's basic economic policies—balance the budget and move into surplus, stabilize the growth of credit and money, make progress towards needed capital formation, and take steps towards meaningful deregulation.

I was not simply offering one more economic projection to be added to the hundreds that appear throughout the year.

Inflation has averaged approximately 2-3 per cent over the longterm history of our country. However, since 1965, prices have risen at an annual rate of 5½ per cent and in 1974 jumped more than 12 per cent before subsiding to the 5-6 per cent zone expected this year.

There is no persuasive evidence for believ-to the historical average of approximately 2-3 per cent if we are to reduce unemployment permanently and to have sustainable gains in the real standard of living.

There is no persuasive evidence for believing that rapid price increases and unacceptable rates of unemployment are a normal part of the U.S. economy as your editorial indicated. I reject such defeatism. History clearly shows that pursuing stable economic policies can result in the sort of economy I expect and the American people deserve.

The return to such conditions will not be easy or automatic, nor will it occur quickly. Government policies must provide the proper environment.

Instead of federal spending rising 40 per cent in two fiscal years—as it did from 1974 to 1976—the growth of future outlays must become more consistent with the growth capacity of the entire economy. Instead of a cumulative deficit of $267 billion and net government borrowings of another $229 billion to operate programs not included in the federal budget during a single decade—FY 1968 through FY 1977—we must balance the federal budget over time.

Instead of the volatile pattern of money supply growth at historically high average rates since the mid-1960s, we must stabilize monetary policy to achieve the targets identified by Chairman Arthur F. Burns of the Federal Reserve System.

Instead of rapidly increasing the intervention of the federal government into the operation of the private sector and into our personal lives, we must re-evaluate existing bureaucratic regulations which too often stifle economic flexibility and directly contribute to inflation.

Instead of inadequate levels of capital in-

vestment and productivity, we must become more efficient and competitive.

Instead of permitting disruptive international monetary and trade crises to continue, we must stabilize the world economy by strengthening our domestic economics.

Every one of these issues involves government economic policies. If we do our job properly, inflation will decline and real economic growth and expanded employment opportunities will result. If we merely continue the go-stop policies of the past, then the pessimists will be proven correct.

Each of the factors you cite to "demolish optimism" on the inflation front is a real challenge. It is easy to find critics to explain why something cannot be done, and it may be the conventional wisdom to claim that the current level of inflation is intractable, but no responsible government official should ever accept that dreary conclusion.

Your editorial suggests that my statements on inflation are merely election-year rhetoric. My real motivations were more basic: To pursue the long and difficult correction process of unwinding the fiscal and monetary distortions of the past decade which have contributed to two boom and recession cycles, resulting in unacceptable inflation and unemployment.

Identifying ambitious goals will not solve our real problems unless responsible economic policies are also sustained. But accepting the current level of inflation as a target would surely guarantee continued economic failures.

WILLIAM E. SIMON,
Secretary of the Treasury.

Washington, D.C.

POISON PREVENTION PACKAGING

Mr. MOSS. Mr. President, in the closing days of 1970, Congress enacted the Poison Prevention Packaging Act of 1970. This important consumer legislation was adopted because of the startling number of deaths and serious injuries attributable to accidental ingestions of many products commonly found in a household. This legislation, which was originally implemented by the Department of Health, Education, and Welfare but is now the responsibility of the Consumer Product Safety Commission, is achieving the goal which Congress intended.

In 1972, safety packaging requirements for aspirin took effect. Since that period, *the number of aspirin poisoning deaths* among children under the age of five has declined by 48 percent according to the National Center for Health Statistics. According to a recent Washington Star article, the Department of Pediatrics at Madigan Army Medical Center in Tacoma, Wash., reports an 88-percent decrease in poisonings from oral prescription drugs since 1974. Similarly, the Washington Star reported that the Windsor Poison Control Center in Ontario, Canada, has revealed results of a 5-year experiment with child resistant drug containers in Essex County, which reveals a 91-percent decrease in such poisonings.

While it is still too early to measure the overall impact of Federal requirements for poison prevention packaging, the trend is clear—we are making an impact on death and serious injuries caused by accidental ingestion. It is my conviction that with the continued implementation of the Poison Prevention Packaging Act, this trend will continue.

While I am pleased with this progress, there are some who criticize the poison prevention packaging requirements because it creates a burden for our senior citizens. I would like to take this opportunity to note, however, that for those families who do not desire the child resistant packaging, alternative packaging is available upon request at the drug counter.

Mr. President, I ask unanimous consent that the article to which I have referred from the Washington Star entitled "You Can't Be Too Careful With 'Child-Proofing'" by Judy Flander be printed in the RECORD.

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

YOU CAN'T BE TOO CAREFUL WITH "CHILD-PROOFING"

(By Judy Flander)

Against her better judgment, the young mother was taking a 30-second shower in the late afternoon while her 2-year old was on the loose in the house. Usually, she waited until he was asleep before taking time out for herself, but today was her husband's birthday and she wanted to freshen up for the celebration she planned that evening.

On the bed was one of those fancy padded storage boxes she's taken down from a shelf in her closet from which to retrieve a scarf. Showered, she raced, towelled and dripping into the bedroom to find her small son sitting on the bed, happily nibbling a moth cake he's found tucked (by the manufacturer) into a small plastic pocket inside the storage box.

No telling how much he'd eaten while she was in the shower. She telephoned her pediatrician in a panic. "I'll meet you at the emergency room," he said briskly. A half-hour later, after his stomach was pumped, the boy was good as new.

A story with a happy ending and a moral: No matter how careful you are, eternal vigilance is the price of poison-proofing your children. Even then, you run enormous risks at the hands of other adults, less safety-minded than yourself.

Witness the recent tragedy in Durant, Okla,. where two toddlers died and eight others were seriously affected from eating cookies that had been laced with rat poison by an exterminator. Parents are continually warned not to transfer poisonous materials into containers used for food and drink, but who warns the exterminators and the pesticide people? The Poison Control Center reports that 5 percent of preschool poisonings are from pesticides, but no law requires them to be packaged safely.

Even when every precaution is taken, the danger is still there. One little-publicized example concerns the Poison Prevention Packaging Act of 1970, requiring that all prescription drugs be dispensed in child-resistant containers. The "palm and turn" top is virtually child-proof and can take 15 to 20 seconds for an adult to open. Longer, if the adult is impatient and tries to yank the top off.

Since the act was enforced in 1974, dramatic reductions in poisonings and deaths have begun to surface. In the year since aspirin came under the edict, deaths from aspirin poisoning among preschoolers have been reduced 48 percent. The Department of Pediatrics at Madigan Army Medical Center in Tacoma, Wash., reports an 88 percent decrease in poisonings from oral prescription drugs. The Windsor Poison Control Center in Ontario, Canada, tabulating the results of a five-year experience with child resistant drug containers in Essex County, noted a 91 percent decrease in such poisonings.

Enough evidence to convince parents that here, at least, is an area where their childrden have a high degree of safety. But not entirely so, says Dr. Herbert S. Hurwitz, a Scarsdale pediatrician, an authority in the prevention of accidental poisonings in preschool children, and special consultant to the Closure Committee of the Glass Container Manufacturers Institute.

The problem isn't in the new containers, themselves, he says (although a few extremely persistent children have managed to bite them open, or crack them open with a hammer), but with adults who are careless about their pills or can't be bothered to use the new tops.

Because they've got preschoolers, the Smith family keeps their drugs under lock and key, even though the bottles are all safely topped in the prescribed manner. Grandpa comes to visit, with his arsenal of pills, all transferred from child-resistant containers to the old pop-off, or screw-off lid containers. A set-up for disaster.

Many times, adults keep loose pills in purses, pockets, on dresser tops, even on their breakfast plates, perhaps to remind themselves to take them with their orange juice. More invitations to disaster.

Hurwitz says the containers won't be 100 percent safe until adults accept them as a fact of life. "The adult has to read the directions and take the extra time to open the bottles. If you approach the bottle like a bull, you won't get it off." Hurwitz compares the child-resistant containers to seat belts. "I think the same folks who won't use the containers, are the ones who won't take that extra 15 seconds to fasten their safety belts."

Parents do need to remain vigilant, he says. Get rid of medications you no longer need; the only safe thing to do is flush them down the toilet. If you are safety-conscious your kids will get the message by the way you handle medicines, the way you obey pedestrian laws, the way you drive your car. By the time the child is 4 or 5, he'll have developed a sense of self-preservation.

Hurwitz reminds parents, "at the age of 2 or 3, the child's curiosity exceeds his ability to discern danger. The 6-month-old grasps everything in sight and puts it in his mouth. The year-old child crawls or walks to anything at ground level and may ingest it.

"And many 2-year-olds can climb to heights unimagined by their parents. There's no such things as a high, safe place." And most people forget entirely about the dangers in their garages. Now that spring is here, Hurwitz warns, "the kids go out, one year more agile, and find the garage. There's the gas for the lawn mower, the insect spray for the shrubs and the fertilizers for the garden. They'll get into them unless they're properly secured," he predicts.

While he sounds all the warnings, Hurwitz is optimistic. He is heartened by the new child-resistant tops and he is gratified to see growing numbers of safety-conscious parents. There has been progress. Hurwitz carries a stomach pump around in the glove compartment of his car; until two years ago, he used it in his practice at least three times a week. The last time he looked at it, the rubber hose was rotted from disuse.

CPL. JOHN M. FRONTCZAK

Mr. MATHIAS. Mr. President, Cpl. John M. Frontczak of the Montgomery County Police Department was buried April 1, 1976. He died in the performance of his duty and in the service of his neighbors. Every citizen of Maryland owes him a full measure of gratitude for laying down his life so that the lives of others would be safer.

The funeral services at St. Catherine

Laboure Church in Wheaton, Md., were attended by a very large number of Corporal Frontczak's fellow police officers and by community leaders and friends. The homily was delivered by Father George Reed of St. Mary's Catholic Church, Barnesville, Md., and reflected the warm personal relationship that had existed between priest and parishioner. Mrs. Mathias and I extend our sympathy to Mrs. Frontczak, to Corporal Frontczak's parents and to all their family.

A part of the service that both Mrs. Mathias and I found particularly moving was the reading, by Lt. John Baker of the Montgomery County Police Department, of a statement by a police officer who expressed his sense of loss at the death of a brother, in eloquent and compelling language.

I ask unanimous consent that a copy of that personal statement be printed in the RECORD.

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

OUR BROTHER IS GONE

Today is the day my brother was laid to rest. Today, at the service, many of my other brothers were present. We gather, of late, much too often like this—these brothers of mine and I.

Today, the rows and rows of blue, of green and gray, the rows of brothers, each of us with a saddened heart, a lump in our throat—and no matter how hard we try to keep it from showing—each of us with tears in our eyes. Because today my brother was laid to rest, and today we feel once again the loss of someone of whom we could be proud, to whom we could relate, someone who cared, who understood, who loved and was loved. We shall miss our brother, and we, unlike many, will not let the passing of time cause us to forget him. We, unlike many, do not forget, because today when my brother was laid to rest, so also was a part of each of us.

Words can be written and songs can be sung, but there is no way that the deep personal sense of loss, the sincere caring, the ability to relate and truly feel the loss of a brother can accurately be expressed.

My brothers have come today from close and far. My brothers have come today because they want to be here, because they feel the same deep emotional loss that *I* feel. No fraternal order of men can feel more genuine concern or emotion for a brother and his family than these brothers of mine.

Today, when my brother was laid to rest, I was sad and yet proud. Sad and moved by the loss of a brother. Sad and feeling for his family and friends, but proud of him for his chosen career and proud to be a member of the Brotherhood of Police.

Tomorrow there will be other brothers of mine laid to rest. Tomorrow there will be other widows and children to mourn their loved one, and I and my brothers know that we also will be there to mourn or perhaps be mourned. This we can accept because it is the Lord who controls the destiny of my Brothers and I.

THE FEDERAL COUNCIL ON THE AGING'S SECOND ANNUAL REPORT

Mr. CHURCH. Mr. President, the Older Americans Comprehensive Services Amendments of 1973 created a 15-member Federal Council on the Aging to serve as a spokesman for the Nation's elderly.

The Federal Council is responsible for performing several functions, including:

Advising the President on matters relating to the special needs of older Americans;

Assisting the Commissioner on Aging in appraising the Nation's existing and future personnel needs in the field of aging;

Reviewing and evaluating Federal policies and programs affecting the elderly; and

Making recommendations to the Congress and the Administration concerning Federal policies for older Americans.

The Council is broadly representative of older Americans, national organizations with an interest in aging, business, labor, and the general public. Nine of the fifteen members are older persons. And, they undoubtedly have great familiarity with the problems and challenges facing older Americans.

Recently, the Council submitted its second annual report to the President. In the covering letter accompanying the report, Bertha Adkins, the Chairperson of the Council, said:

In this year of the bicentennial of the founding of these United States, we ask that you lead the way in honoring that group of Americans who have contributed so much to the strength of this Nation and now deserve a status and role of worth and value. We look forward to working with you and the Congress towards a better life for older Americans in 1976.

At the same time, the Council expressed deep concern about President Ford's offhand rejection of its earlier recommendations.

The 15 members pointed out:

The Council respectfully submits that it has a legal responsibility to speak out in a particular area of interest and advocacy, namely the national concerns for the elderly of this Nation. At the same time, the Council is cognizant that the needs of the elderly must be seen in the perspective of other groups within the population who have urgent humanitarian needs.

As chairman of the Senate Committee on Aging, I am pleased that the Council endorsed all the recommendations developed by the committee's Task Force on Women and Social Security.

In addition, the Council gave priority attention to the Task Force's following recommendations to:

Make the age-62 computations point applicable for men born before 1913.

Eliminate the substantial recent current work test to qualify for disability benefits.

Reduce the duration of marriage requirement from 20 to 15 years for a divorced wife—or husband—to qualify for benefits on the spouse's earnings record and remove the consecutive years marriage requirement.

Mr. President, I commend the second annual report of the Federal Council on the Aging to my colleagues, and I ask unanimous consent that the "1975 Overview" be printed in the RECORD.

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

1975 OVERVIEW

ANNUAL REPORTS

This second annual report of the Federal Council on the Aging is presented in accordance with provisions of the Older Americans Act. The Council is required to transmit ". . . findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress with his comments and recommendations."

The first report on the Council was issued in March 1975, some ten months after confirmation by the Senate of nominees for this newly established body. It is our intent to issue our reports on a calendar year basis from now on thus there will be some overlap between these first two reports.

A major concern expressed by the Council in its initial report was about the level of funding for programs to assist the elderly. We stated that ". . . their urgent humanitarian needs require special atention in strategies by both the executive and legislative branches of government to offset the effects of recession and inflation."

On July 24, 1975, the President transmitted this report to the Congress indicating sympathy with this concern but with a determination ". . . to reduce the burden of inflation on our older citizens, and that effort demands that government spending be limited."

The Presidential response concluded, "The perspective and recommendations of this report are limited to a particular area of interest and advocacy. The report does not reflect the Administration's policies, which must reflect a broader range of responsibilities and priorities."

The Council respectfully submits that it has a legal responsibility to speak out in a particular area of interest and advocacy, namely the national concerns for the elderly of this nation. At the same time, the Council is cognizant that the needs of the elderly must be seen in the perspective of other groups within the population who have urgent humanitarian needs.

STUDIES OF BENEFITS AND TAXES

We believe that the intent of the Council to serve as advocate for the elderly in both a thoughtful and sensitive manner is reflected in the two Congressionally-mandated studies which were recently completed and submitted to the President. (Summaries of these studies are included in this second annual report.)

Among the recommendations that are being suggested are several which call for government aid to be directed to the poorest among the elderly and, indeed, to the poor of all ages and that this aid—be it in cash or kind—be more efficiently and effectively directed to its intended beneficiaries. We hope that we have also provided sufficient data of such quality that our conclusion and recommendations will be given full and careful consideration.

FRAIL ELDERLY

This report also highlights a group among the elderly whose needs are not necessarily financial. The Council is still developing recommendations for national policies for a system of care for those whom we call the "frail elderly." These are the elderly—usually the oldest of the old—who require support from society because of an accumulation of the debilities of increasing age. We do suggest some needed national actions which will move us towards the goal of a rational system of care for the frail elderly.

Also included in the report are a number of other recommendations for action in 1976 with special sections on a Bicentennial Charter for Older Americans and on the needs of older women.

STATE FORMULAE STUDY

It is in order at this point to review the reception of the first Congressionally-man-

dated study of the Federal Council. This study on State formulae for funding programs under the Older Americans Act was duly completed and submitted on December 30, 1974 to the Commissioner on Aging, the Secretary of Health, Education and Welfare and the Committee on Labor and Public Welfare of the Senate, and the Committee on Education and Labor of the House of Representatives. In addition, the Chairman of the Council reported on the study in testimony before the respective House and Senate committees.

The Council is pleased that one of the major recommendations of the study does appear in the Older Americans Act Amendments of 1975 as finally enacted. The Council advocated an increase from $160,000 to $200,000 for the minimum allotment to each State for State administrative costs. The Council also highlighted direct funding for Older Americans Act programs to federally recognized Indian tribes and a provision to this effect has now been enacted. We would hope that the Council had some role in *bringing about this needed change.* However, there is no reflection in either the law or the reports on the legislative deliberations which indicate that the executive or legislative branches gave attention to the other major findings and recommendations of this Federal Council report. We would suggest that they are still significant and we would hope that further attention will be given to the Council study on State formulae for funding programs under the Older Americans Act.

Policy positions have also been taken on the following matters during 1975:

APPOINTMENT OF ADVOCATES FOR ELDERLY TO HEALTH ADVISORY BODIES

On April 30, Chairman Bertha Adkins wrote to Secretary of Health, Education, and Welfare Casper Weinberger concerning appointments of advocates for the elderly to advisory bodies; specifically the appointment of a physician with expertise in the field of geriatrics to the National Professional Standards Review Council and the appointment of one or more persons with expert knowledge of the special health needs of the elderly to the new National Council on Health Planning and Development.

COORDINATED SOCIAL SERVICE PLANNING FOR THE ELDERLY

Following the Council meeting of May 15–16, the Chairman communicated to Secretary Weinberger the Council's interest in having regulations for Title XX of the Social Security Act specify that the State plans for social services must show close coordination with the State plan required for Title III of the Older Americans Act. Senator Frank Church was also informed of Council interest in his amendment to this effect and letters were sent to Senators Williams, Javits and Eagleton containing the Council recommendation that the provision of S. 1426 calling for these strong linkages be adopted.

Also recommended was that, whenever any human services legislation affecting the elderly is proposed which calls for planning at the State level, a requirement should be included whereby coordination with the Older Americans Act Title III State plan be mandated.

CONSTRUCTION LOANS FOR THE ELDERLY AND HANDICAPPED

On July 29, the FCA Chairman wrote members of the Senate and House Appropriations Committees for Housing and Urban Development notifying them of the Council's concern that the proposed Sec. 202 regulations for the Housing Act of 1959 on construction loans for the elderly and the handicapped did not provide to non-profit organizations adequate access to permanent financing and therefore would not meet the needs of poor and minority elderly. The Council recommended that the Conference Committee approve the Senate version of the HUD appropriation bill as it related to the implementation of Section 202. Favorable response to this recommendation was received from 18 members of the Conference Committee.

A similar letter was sent to Secretary Carla Hills of HUD. Her reply indicted her concern with the housing needs of the elderly and the prospect of a modification of the final regulations which would assist sponsors in obtaining financing under HUD's mortgage insurance programs.'

FOSTER GRANDPARENTS PROGRAM

The Council's recommendtaion that there be no change in the basic concept of the Foster Grandparents program as a service solely for children was communicated to the Director of ACTION. This recommendation was occasioned by proposals to expand the role of Foster Grandparents to the core of the adult retarded. The Council indicated their support for expanded services to the adult retarded through other senior programs under ACTION such as Senior Companions and R.S.V.P.

The Director of ACTION replied expressing his appreciation of the support of the Council in their recommendtaion which coincided with the position taken by ACTION on the Foster Grandparents program.

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

As a result of Council action at its September 26–27 meeting, Chairman Adkins extended to the Secretary of Health, Education, and Welfare an offer of assistance and cooperation in the work of the Committee on Mental Health and Illness of the Elderly established under the Health Revenue Sharing and Health Services Act of 1975. In a similar vein, a letter was sent to the Senate and House Appropriations Committees recommending an appropriation for the Committee on Mental Health and Illness of the Elderly of sufficient proportion to accomplish its legislated goals.

Secretary Mathews, in his reply to the Council on October 3 indicated that HEW was moving in a positive manner to implement the legislation but that their actions were limited due to funding uncertainties ". . . at the present time." He concluded, "I am sure at the appropriate time, the Committee and its staff will take advantage of this offer."

WOMEN AND SOCIAL SECURITY

At the request of the Special Committee on Aging of the United States Senate, the Council reacted at its December meeting to the working paper on "Women and Social Security" which had been prepared by the Committee's Task Force on Women and Social Security. The Council endorsed all the recommendations of the Task Force and suggested that the highest priority for change be given to those recommendations that eliminate sex discrimination.

The Council urged particular attention to the following matters:

An age—62 computation point be made applicable for men born before 1913.

The substantial recent current work test to qualify for disability insurance should be eliminated.

The duration of marriage requirement should be reduced from 20 to 15 years for a divorced wife (or husband) to qualify for benefits on the basis of the spouse's earnings record, and the consecutive years requirement should be removed.

The computation of primary benefits and wife's or husband's benefits should be adjusted to increase primary benefits for workers by approximately one-eighth and to reduce the proportion for spouses from one-half to one-third, thus, maintaining the present total benefit of one hundred and fifty percent for a couple, and at the same time improving the protection for single workers, working couples and widows.

The Council did not agree with adding a dependency test for women the same as the present one for men, since this action would represent a program deliberalization and is therefore regressive.

The Council concurred with the goals of the Task Force Report and recommended further study for indexing earnings before retirement to changes in average earnings and indexing benefits after retirement to changes in prices.

The Council recommended additional study of the Social Security problems relating to the homemaker. "We recognize the problems but question the appropriateness of using an earnings replacement system to provide benefits when no actual earnings have been lost."

The Council also recommended further study on the special problems of older minority women and Social Security in regard to low lifetime earnings, years of uncovered employment and a lifetime expectancy that is less for women who are not from minorities.

SOCIAL SECURITY AND THE "DECOUPLING ISSUE"

At the Council's December 3–5 meeting, it was agreed that the Administration should be asked to develop an amendment to the Social Security Act to correct the "decoupling" problem. Under the present automatic benefit provisions of the act, in a situation where both wages and prices had risen steadily, future workers would get in effect a double upward adjustment of their retirement. This would occur because the impact of the rising wages and rising prices would be entered twice in the computation of the benefit—once in the determination of the average wage on which benefit amounts are based and again by adjusting the amount for rising prices.

This would result in the long run in paying present workers unjustifiably high (and costly) benefits when they retire—a situation which the Congress did not foresee and certainly never intended.

In a letter to the President on December 23, 1975, Chairman Bertha Adkins further stated,

"While this desirable correction runs to the longer range problems of the Social Security system it has an immediate urgency. In the absence of a positive position by your Administration, the Trustees in their Annual Report will have no alternative to basing their central set of estimates to the soundness of the system on provisions of the Act as it now stands. With an Administration position calling for correction of this technical error, the Trustees would have a basis for reassuring the public of the essential strength of the program. This is especially important in view of the wave of unfounded and irrational attacks on Social Security which have emerged in recent months in the press and television. These attacks have caused unnecessary worry especially among the elderly which you, Mr. President, by taking action now, can do much to allay.

"The Federal Council's action contained one further point which the members were most anxious for me to emphasize in my communication to you. That was that this decoupling issue, and easily correctable feature of the program, should be kept separate from other changes in the program which would not enjoy the unanimity of support that it does. Any attempt, for example, to combine the decoupling issue with a proposal to reduce the long term basic wage replacement ratios would not only confuse the issue but most likely make impossible early action on the technical correction."

JAPANESE AUTO IMPORTS REACH ALLTIME HIGH

Mr. FANNIN. Mr. President, the Japan Foreign Trade Council, which represents leading Japanese trading houses and exporting manufacturers, announced recently that the total export figures for February by the 14 major trading corporations was up 6.2 percent compared with February 1975, and that imports were up 15.6 percent. This is good news for Japan, an industrial giant which relies heavily on international trade for its economic vitality.

What concerns me is the fact that Japanese automobile imports into the United States reached an alltime monthly record in February of 132,000 units. This figure represents about 45 percent of the 294,000 automobiles exported from Japan during that month.

Such massive numbers of imports from *one nation bring with them alarming* projections for the future. While imported car sales in the United States dropped 13 percent in March of this year as compared to March of 1975, all Japanese makes increased their sales. Toyota sales rose 14.9 percent from March 1975, to March 1976 Datsun sales increased 13.5 percent; Honda sales jumped 24.7 percent and Mazda witnessed a 3-percent rise in sales.

It is true that our domestic manufacturers are experiencing an encouraging recovery. March new car sales rose 36 percent from the year before. I join the auto industry on hailing these as a healthy sign.

Mr. President, we should not allow our optimism to get out of control. Unemployment in the automobile industry was 5.4 percent in February, less than the national figure of 7.6 percent. Let us not forget the devastating unemployment figures of only a few months ago.

Mr. President, I ask unanimous consent that the following table be printed in the RECORD.

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

UNEMPLOYMENT IN THE DOMESTIC AUTO INDUSTRY

	Percent
October 1975	19.5
November 1975	14.4
December 1975	17.7
January 1976	6.4
February 1976	5.4

Mr. FANNIN. Mr. President, the decline in unemployment in the industry is due both to increased sales and optimistic forecasts for the remainder of this year. Employment in this vitally important industry is often volatile, but seldom has it experienced such highs and lows as in the last several months.

Mr. President, Japan is a valuable ally. Nevertheless, it is a trading nation which expects much more than it is willing to give. Japanese autos have entered our markets for years at the duty rate of only 3 percent. American-made automobiles have never been able to compete in Japan due both to higher tariffs and unconscionable nontariff barriers. Such protectionist measures are utilized by the Japanese not only against American automobiles but also against most manufactured goods and many agricultural products, such as citrus, which compete with Japanese products and crops.

The Treasury Department is now evaluating data made available by the U.S. Customs Service in eight alleged dumping cases. Most of our major trading partners are included in this list. Japan is among them. There is reason to believe that at least some of these nations felt they could aid their own recovery from the recent recession by dumping their automobiles on the lucrative American market. We cannot allow this to happen to our economy. Above all else, jobs for American workers are at stake. The industrialized world will never have respect for us as a nation if we permit this type of activity to take place.

Mr. President, the United States has an opportunity to redress inequities such as we are experiencing with Japan through negotiations now underway at Geneva. I have full faith in Special Trade Representative Frederick Dent. He has an excellent opportunity to open world markets for American products. The Congress expressed its strong position in the Trade Act of 1974 that we should make every effort to expand American trade by negotiating the reduction of tariff and nontariff barriers abroad. I am certain I join my colleagues in the Senate in stressing the necessity of achieving these negotiating objectives.

THE SONNENFELDT CAPER

Mr. STEVENSON. Mr. President, after 2 weeks of press speculation over what we might call the Sonnenfeldt caper, the State Department document which stirred up the fuss has been published in the New York Times. I had been looking forward to its publication with some curiosity, assuming that it would leak eventually out of the executive branch. Such secret documents usually do. We have been treated to a spectacle which has become a familiar feature of Secretary Kissinger's administration of our foreign affairs.

First, the leak. Then the speculation. Is it a policy shift? A signal to the Eastern Europeans? To the Soviet Union? A calculated leak? An insubordinate leak by an official who disagreed with the policy?

Then, the denial. Remarks were lifted out of context. Misleading distortion. Total falsification. There is no Sonnenfeldt doctrine.

Then, the placing of the blame on subordinates. In this case the notetaker, it seems, was at fault. Shall we be informed of another public reprimand?

Meanwhile our friends and our foes and the American public are left to wonder just what our policy is. Thanks to the Secretary, no one knows just what to make of the denial. So we flounder, while partisan politicians, reaching for the jugular, lament that it is our policy that "the captive nations should give up any claim of national sovereignty and simply become a part of the Soviet Union . . . In other words, slaves should accept their fate."

Not so, says the Secretary of State, speaking to a Committee of the House:

> As far as the U.S. is concerned, we do not accept a sphere of influence of any country, anywhere, and emphatically we reject a Soviet sphere of influence in Eastern Europe.

The Secretary of State rejects it, but does his counselor, Mr. Sonnenfeldt? This is what we read in the now-published summary of his remarks to the assembled American Ambassadors in London last December:

> The Soviets' inability to acquire loyalty in Eastern Europe is an unfortunate historical failure, because Eastern Europe is within their scope and area of natural interest.

And further down the page:

> So our policy must be a policy of responding to the clearly visible aspirations in Eastern Europe for a more autonomous existence within the context of a strong Soviet geopolitical influence.

Shall we quibble over the difference between "sphere of influence" and "area of natural interest" or "geopolitical influence"?

The working levels of the Department of State, left in the dark as usual, struggle to respond as best they can to indignant inquiries from the public. Here is what the public is being told, in letters sent out by the Department:

> Our long-standing policy toward Eastern Europe has not changed. We in no sense accept a Soviet "dominion" of Eastern Europe nor are we in any way seeking the consolidation of such "dominion." On the contrary, we seek to be responsive to, and to encourage as responsibly as possible, the desires of the countries of Eastern Europe for greater autonomy, independence and more normal relations with the rest of the world. It is our objective that in this way there should also occur a greater Soviet acceptance of this autonomy and independence.

Now this prose does not exactly sing, but at least it has the advantage of a simple, intelligible statement of what most of us have understood U.S. policy to be for the last 20 years, since the Hungarian uprising forced upon us a posture of realism. Since 1956 we have been telling the Eastern Europeans, in effect, that we will support their national aspirations, but not to the point of national revolt. If they do revolt, they are on their own. The Czechs understood that.

The Sonnenfeldt remarks contain some of these principles but in such a convolute manner as to raise doubts over his meaning. He is reported to have said that,

> We should strive for an evolution that makes the relationship between the Eastern Europeans and the Soviet Union an organic one.

What did he intend "organic" to mean? The Secretary of State, interpreting the remarks of his surrogate for all matters European, has said that:

> What he meant was a more historic relationship, a relationship in which the Soviet Union was not so predominant.

Organic means historic?

This kind of confusing wordplay raises some questions over the purpose and effectiveness of the meeting in London in December to which the Sonnenfeldt remarks were addressed. One may assume that annual regional meetings of American Ambassadors such as this,

which consume a bite of the State Department's travel funds, are designed to provide for the more active participation of our Ambassadors in the policymaking process and to clarify for them the important elements of the policies for which they are our spokesmen abroad. We do not know exactly what Mr. Sonnenfeldt said, but if the published summary of his remarks is a reasonably accurate measure, they seem more suitable for presentation at a Harvard graduate seminar than to a meeting of this kind. With all due respect to the men and women chosen by the administration to represent us in Europe, at least some of them lack the intellectual brilliance and the powers of divination of Secretary Kissinger. They may be forgiven for returning to their capitals puzzled and disquieted over our policy toward Eastern Europe and unsure of how to explain this policy to European officials.

If the dispatch, nearly 2 months later, of the now notorious summary in a telegram to our Ambassadors in Europe was designed to clarify our Eastern European policy, it was a dismal failure. It is astonishing that in 2 months a coherent, clear-cut policy statement could not have been devised. Whether it was leaked in anger or leaked in despair is left to conjecture. The fact is that it was leaked, and the damage has been done.

In the Soviet Union it has no doubt been read with satisfaction. The Soviets, naturally, share Mr. Sonnenfeldt's regret that they have done such a poor job in winning friends in Eastern Europe—except possibly Bulgaria. They will be relieved to have it on the public record that we encourage a more compliant or a closer or a more friendly or a more organic or a more historic relationship with Eastern Europe. In Belgrade, Bucharest and other Eastern European capitals it has understandably caused confusion and concern. Some Eastern European governments are reported to have expressed this concern.

Two things distress me about the Sonnenfeldt caper. First, the whole episode is typical of the miasma in which this administration has sunk the conduct of our foreign relations. Personalized diplomacy, secret maneuvering, manipulation, half-truth and deceit have confused our friends and allies, given comfort to our enemies and baffled the American public. Small wonder that the Sonnenfeldt affair has caused a furor. The Secretary of State has so little credibility left that even his denials are interpreted as confirmation. No one knows any longer what to believe about his policies.

Second, any reasonable interpretation of the summary of Mr. Sonnenfeldt's remarks leads to discouraging conclusions about the direction in which the pursuit of détent is taking us. The United States, to which so many of the hungry and the oppressed have come from Eastern Europe during the past century to build a new life, has been and must continue to be a beacon of hope for the people in Eastern Europe who dream of liberty. While we cannot hold out to them the promise of liberty through force of arms, we must not destroy any hope of achieving it at some future time through courage, perseverance and an enduring attachment to their own national values.

CHILD CARE PROBLEMS

Mr. LAXALT. Mr. President, I have long been concerned about Federal encroachment on the prerogatives of State and local governments. I have also been disturbed by frequent tendencies on the part of the Federal Government to act before it has an adequate factual basis for its decisions. And, I regret to say the recent controversy over child day care staffing standards has exhibited both these unfortunate tendencies.

In this election year, the voters have clearly demonstrated that they do not believe there is any monopoly on wisdom or competence in Washington. I certainly agree, but regrettably, the Social Services Amendments of 1974 suggest otherwise. They do so by adding into the Social Security Act certain staffing requirements for child day care programs and authorizing the Department of Health, Education, and Welfare to issue regulations prescribing such requirements. In my view, this Congress should be reversing that unfortunate tendency of the 1960s which saw the Federal Government dictating social program requirements to States and localities. But, instead, the day care staffing standards envisioned in the social services amendments impose still more requirements.

Proper staffing levels for child care programs occasion considerable differences of opinion even among recognized experts. For this reasons, in addition to imposing the staffing requirement, the 1974 act mandates that HEW study the entire question and report to Congress by the middle of 1977.

However, this Congress now appears unwilling to wait for the conclusions of this study which might provide the clear factual basis necessary for an informed judgment as to precisely what these standards should be.

H.R. 9803 attempted to delay the otherwise immediate imposition of certain staffing standards. It also contained certain provisions providing assistance to the States in meeting the standards. I voted for this legislation not because I found it attractive but because I saw no alternative. To my mind, a vote against H.R. 9803 was a vote against postponing the standards and providing assistance to the States in meeting those standards as well as a vote tantamount to endorsing their immediate imposition.

But, many of my colleagues saw the situation differently. During the debate on the conference report, they expressed their opposition and argued that H.R. 9803 should be replaced by a simple deletion of the standards. Although the absence of this alternative at the time of the vote on the conference report compelled my affirmative vote on H.R. 9803, that alternative is now available.

S. 3266, introduced by Senator BARTLETT, deletes the Federal standards from the 1976 act and replaces them with State standards. I am delighted with this bill and I am pleased to have my name added to the bill as a cosponsor. I would also like to take this opportunity to commend the distinguished Senator from Oklahoma for his diligence and judgment in authoring this fine legislation.

SOME HELPFUL HINTS IN APPLYING FOR SOCIAL SECURITY BENEFITS

Mr. CHURCH. Mr. President, nearly 6 million persons will apply for retirement, disability, or survivor benefits at local social security offices throughout the Nation in 1976.

Of this total, about 1.5 million will be retired workers.

For most of these individuals, social security will be their economic mainstay.

It is essential, therefore, that they take appropriate steps to guard against costly delays.

This can be done with a minimum amount of effort and appropriate planning.

Applicants, for example, should bring certain documents—such as a birth certificate for proof of age—to support their claims for benefits.

In addition, it is important that they take certain preliminary steps to insure that they receive their appropriate entitlement.

Many older Americans, as well as younger applicants, are completely unaware of the requirements to support their claims for monthly benefits.

However, they can be assisted considerably with a few helpful suggestions.

An article appearing in a recent edition of U.S. News & World Report provides several good pointers for persons applying for social security benefits.

Moreover, it offers guidance for persons who may work after receiving social security benefits.

This article can be helpful for many aged and younger applicants for social security benefits.

Mr. President, 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:

PLAN TO WORK AFTER YOU RETIRE? BETTER CHECK SOCIAL SECURITY

A White House proposal to tighten the limit on how much retired workers can earn without losing Social Security benefits is raising many questions. Among them: How does the present earnings limit work? How can people approaching retirement plan their work schedules in retirement to avoid loss of pension checks? In what follows, you get authoritative answers to these and other questions:

How can I, as I approach retirement, get an idea what my Social Security pension will be?

You can get a close approximation by using the leaflet, "Estimating Your Social Security Retirement Check," available at district and branch offices of the Social Security Administration.

To make the estimate, you will need your Social Security earnings record. Get that by sending a request on the simple card form—OAR-7004—to: Social Security Administration, P.O. Box 57, Baltimore, Md. 21203.

How can I apply for benefits?

Officials advise that you telephone, write or visit your nearest Social Security office about three months before you reach the age of 65, or earlier if you plan to retire before that. If you phone in, you can learn whether it's necessary to come in and, if it is, when to do it and what it's all about. A main service of the office is to help people make applications. And it's important to apply well in advance to avoid delays in your first checks.

What evidence and documents are needed to support applications?

Generally, these:

Your Social Security card, or a record of your number.

Proof of your age—preferably a birth certificate or a baptismal certificate made at birth or not long after.

Your marriage certificate and proof of your wife's age, if she is applying for a benefit on your work record.

Your children's birth certificates if you expect benefits for them.

Your tax form W-2 for last year or, if you are self-employed, a copy of your latest federal tax return.

But don't delay making application just because you do not have all these. In a pinch, other evidence of age will do. School records, for example, are useful. And the field office will be glad to give you forms to use in getting census records.

When will the first check arrive?

If there's no hitch, the check for your first month of retirement should come in the mail about the third day of the following month. If there is a delay, checks will be paid retroactively.

Can I continue to work some in order to live a bit better in retirement?

Yes, but if you work and earn too much, you will lose some benefits. It will pay you to study the complex rules.

The general rule is this: For each $2 you earn in excess of the allowable amount, you will lose $1 of benefits.

For 1976, that earnings maximum in retirement is $2,760 in the year. It will rise as living-cost adjustments are made in future years.

But there is this crucially important exception: No Social Security benefit dollars can be withheld from you for any month in which you neither earned more than $230 in wages or salary nor contributed "substantial services" in self-employment.

Some examples will show how the rule and the exception work out:

Suppose you work and earn $1,000 a month for seven months, then loaf for the remaining five months of 1976. Your total earnings of $7,000 are well in excess of the $2,760 limit.

Yet you will be entitled to full benefits for the five nonworking months.

Suppose after earning $1,000 a month January through June, you hold your earnings to $230 a month for July-December. Your total earnings come to $7,380. Yet you lose no benefits for the final six months of the year.

Then, once I have exceeded the $2,760 limit, every dollar I earn above $230 a month counts against me. Right?

Wrong! That's not the way it works. Retired workers have been shocked by the unexpected loss of untold millions in pension checks because they tried to apply the earnings limit that way.

Once you pass the $2,760 limit in annual earnings, every dollar you earn is a potential charge against your benefits for any month in which you earn more than $230—or work substantially as a self-employed person.

And note that your wife's benefit, along with any others based on your record, also is at stake in all this.

Assume, to illustrate, that your monthly Social Security benefit at age 65 is $300, with your wife's benefit putting the total at $450 a month, or $5,400 a year.

To make everything come out neat and even, suppose you work and earn $12,180 in salary in the first half of the year. That's $9,420 in "excess earnings," above the $2,760 ceiling.

For each $2 excess, you lose $1 in benefits. So $5,400 of that money will be charged off against your $2,700 in benefit for those six months. You lost that $2,700 in retirement income.

And $4,020 of excess earnings remain to be charged off against your benefits.

Now, suppose that in July you earn $231—just $1 over the limit.

Result. You will lose an entire month's benefit of $450 for July.

If you were to be so unwary or so confused about the rules that you earned $231 in each of the last six months of the year, your benefits for all those pay periods would be vulnerable.

Here is what would happen: Your $1,386 of pay in the last half of the year, added to the $4,020 of excess earnings still hanging over you at midyear, would bring to $5,406 your excess earnings remaining to be charged against benefits. That's enough to wipe out your $2,700 in pension checks for the final half of the year.

If you had held your June-December earnings to $230 a month, you would have received benefits for those six months. In effect, the extra $6 of earnings in the final six months of the year cost you $2,700 in benefits.

That's not all. Your entire $12,180 in pay for the year is income for tax purposes. If the taxable part of your company pension and other income add to, say $26,000, your tax bracket will be high enough that the added tax take resulting from your wage income will be $3,158. The Social Security payroll tax will take away an additional $794. What's left comes to $9,614.

For that, you have sacrificed $5,400 in tax-free benefits. So your net income from working is down to $4,214. And you still haven't taken out any for your State income tax, not to mention the transportation costs, and other expenses you would have incurred in working.

The odds are you made little or nothing by working. Certainly the extra $6 earned in the last half of the year cost you dearly.

I plan to retire at 65 on July 1. Will my pay in the first half of 1976 count toward my earnings limit?

Indeed it will. Thus, the chances are that any month in which you earn more than $230 in the last half of 1976 will cost you a month's benefits.

What if my wife works part time?

If she is drawing a wife's benefit, based on your work record, her earnings in excess of $2,760 this year will be charged off against her benefits only, not against yours.

In the example above, no more than her $1,800 in annual checks will be lost, no matter how much she earns.

What earnings count in calculating the limit?

In general, all wages and salaries, either in cash or goods, earned before the age of 72. But some pay is exempted.

Accumulated sick-leave pay received after retirement is not counted. Neither is pay for inactive duty while training in the armed forces or for jury duty. Royalties from a book or other property created before your retirement also are excluded.

What if I work part time year-round, but draw pay only quarterly?

You can't avoid the earnings limit that way. What counts toward the ceiling is not what you are paid, or when, but what you earn, and when.

What about part-time work I do in self-employment?

No matter how much you earn in the year, benefits will still be paid for each month in which you did not perform substantial services in self-employment.

What are "substantial services"?

That's a complicated concept. Many factors are taken into account—the nature of the services, the time spent in any such activity, whether physical or mental, at the business premises or at other locations.

The test is whether the beneficiary can reasonably be considered retired in the month.

Is there a rule of thumb?

Yes, but it's just that, no more. It's this: Services of 45 hours or less a month will not ordinarily be considered "substantial."

However, an official explains, if a beneficiary submits evidence to show that he can reasonably be considered retired in a month in which his services exceeded 45 hours, his services will not be considered substantial.

Any losses in self-employment can be subtracted from earnings. If you earn $3,000 in salary, but run a $500 net loss in self-employment, your net earnings of $2,500 are within the limit. You lose no benefits, no matter how much you earn in any month or how much you work in self-employment.

But note this: If you do exceed the $2,760 ceiling, you can lose benefits in any month in which your self-employment services were substantial, even a month in which you lost money.

If I spend a good deal of time managing my investments, will I be docked for engaging in self-employment?

No. That activity isn't counted as self-employment. So it would not cost you any pension checks.

What if, after retiring July 1, I spend my time writing a book?

That's a gray area of the law. But an official says that if you set out to write a book on a speculative basis, without any contract or advance from a publisher, your benefits "probably" will not be withheld.

On the other hand, if you start with a publisher and an advance payment, it's a different situation. When your royalties start coming in, even years later, Social Security may look back at the record to determine when you earned any excess income and charge it off against benefits.

How can Social Security withhold benefits already received and spent?

It cannot, of course. But it will withhold benefits later on to offset checks paid out for months in which you flunked the retirement test.

How can Social Security know how much I work in self-employment?

If you draw any benefits in a year in which you have excess earnings, you are required to file an annual report of your earnings and activities.

Failure to file that report can mean substantial penalties, in addition to any benefits withheld.

Can I arrange in advance to draw benefits only in months when I qualify?

Often, yes, and that's strongly advised if you know in advance when you will be working and how much you will be earning.

Consult with your contact in the Social Security field office, give him or her a schedule of your work plans, and keep it up to date. Most of the offices are set up to handle that.

This way, you will lose few, if any, benefits unexpectedly.

How does President Ford propose to tighten the earnings-limitation rule?

He wants to apply the limit flatly, eliminating the exception that you lose no benefits for any month in which you neither earned more than $230 in wage or salary nor performed substantial services in self-employment.

What would be the result?

Officials estimate that in the fiscal year

starting October 1 about 155 million dollars in otherwise payable benefits would be withheld. And the impact would grow in future years.

But that's not all. For many retired people, the results would show up, not in the form of benefits withheld, but in wages and salaries foregone as people elected not to work at the price of losing benefits.

Either way, it would mean reduced living standards in retirement for many.

Is Congress likely to go for any such proposal?

That's regarded as extremely unlikely. For decades, Congress has been acting periodically to ease the earnings limitation during retirement. It's taken as highly improbable that, even if 1976 were not an election year, Congress would do an about-face now.

PROTECTING THE FIRST AMENDMENT FROM THE GATHERING DARKNESS

Mr. FANNIN. Mr. President, Jo Hindman is a journalist from Powell Butte, Oreg., whose syndicated weekly column "Metro News" has been published continuously for 13 years by small town newspapers in several States.

Recently, Mrs. Hindman wrote an article about the threat of trade unionism to journalists' first amendment freedoms. As she points out, at issue in the debate over the union's exclusive representation of reporters, commentators, and other employees of newspapers and radio and television stations is "freedom of choice for the journalists—the ears, the eyes, the editorial watchdogs of the people."

As the writer indicates:

Unionism's harsh suspensions, fines, censure, and other disciplinary tortures are *notorious. It is inconceivable* that such punishment should remain hovering over those who are entrusted with the sacred responsibility of bringing the truth to the public, the journalists.

Mr. President, I am pleased by Mrs. Hindman's support for my bill, the Journalist Freedom of Choice Act. I ask unanimous consent that her column "The Gathering Darkness," be printed in the RECORD as it appeared in the Ozark Sunbeam, published in Seligman, Mo., on March 8, 1976.

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

THE GATHERING DARKNESS

(By Jo Hindman)

To get their messages out, journalists and reporters have more hurdles to clear than is generally realized by the public they serve.

Always there has been the laissez faire (survival of the fittest) under the editor's pencil and editorial policy. Also, the round file for the rejects rather than the slot in the news room. Plus the overworked, most used, sometimes valid editorial excuse, "Lack of space."

Added to that, some attorneys and judges on the bench are trying to "blackrobe" the news. Some justices want to decide what facts reporters shall hear and how many facts will be allowed to be taken out of the courtroom to appear in print that reaches the public.

Now, topping it off is the stifling threat of trade unionism, preempting the First Amendment and wanting to control free speech.

Countering the threat is U.S. Senator Paul Fannin's bill, the Journalists' Freedom of Choices Act (S. 2712). According to Senator Fannin federal law authorizes, but does not mandate, agreements between labor unions and news-supplying management, to require journalists in the printed and electronic press to join, pay dues, and be subject to union discipline. (Title 29 U.S.C. 158(a)3, National Labor Relations Act.)

However, when such a labor-management agreement does exist, clause 159(a) of the same federal law states that the local union's selected bargaining representative must be the exclusive representative of all the employees in such a chapter or unit. It is called the "exclusivity requirement." It throws the net over the journalists—writers, broadcast journalists, commentators or critics on public issues.

Some journalists prefer to manage their own contracts with "the boss."

Adamantly, the unions want to represent the journalists.

And the courts appear to be siding with the unions, as the ups and downs of Buckley-Evans vs. AFTRA, AFL-CIO demonstrate. AFTRA stands for American Federation of Television and Radio Artists.

At issue is freedom of choice for the journalists—the ears, the eyes, the editorial watchdogs of the people.

The power of unions is nowhere more dangerous than in the field of the people's government. The unions' overflowing campaign coffers scandalously provide the muscle to enforce the unions' choices of political candidates and political preferences.

Unionism's harsh suspensions, fines, censure and other disciplinary tortures are notorious. It is inconceivable that such punishment should remain hovering over those who are entrusted with the sacred responsibility of bringing the truth to the public, the journalists.

Of course, some journalists, at the snap of union fingers, prefer to go off the air or cover their typewriters during contract disputes while non-union personnel reportedly defamed as "scab" workers have in instances been denied information by some of Washington's so-called political elite who thus deny the public the information to which it is entitled.

Senator Fannin's bill will go far in clearing the air. Its purpose is to exempt columnists, broadcast journalists, commentators, or critics on public issues from the exclusive representation provisions of the present labor law. In other words, if enacted the measure would free the journalists, giving them the choice to join or to not join the union, and unhampered to write the truth as they find it.

To stave off the gathering darkness, the reading public can support S. 2712, the Journalists' Freedom of Choice Act.

NATIONAL GRID STUDY AVAILABLE

Mr. METCALF. Mr. President, as chairman of the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, I wish to announce the issuance of a committee print entitled "National Power Grid System Study—An Overview of Economic, Regulatory, and Engineering Aspects."

The preliminary study and comments contained in the committee print will be very useful to those interested in the improved transmission of electricity in the United States.

So that Members of Congress and the public may have an idea of the findings and limitations of the national grid study, I ask unanimous consent that my memorandum introducing the committee print be printed in the RECORD.

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

MEMORANDUM FROM THE SUBCOMMITTEE CHAIRMAN

Early last year Representative Richard Ottinger of New York and I requested the of Congress to study the concept of a national power grid for electrical power transmission. Congressional Research Service of the Library

The CRS study, done in part by a contractor and consultants and in part by CRS in-house, was completed in November 1975. Its primary findings on feasibility, based on present and reasonably foreseeable technology, are:

There is not enough load diversity among the time zones to justify a grid.

Most of the seasonal load diversity is already utilized, and the remainder is too scattered to justify a grid.

The regional reserve pools will practically evolve into a national grid within 10 years, and this appears to be the best procedure.

Improved load factors will reduce load diversity and decrease excess power available to the grid.

Existing studies indicate that reserves might be reduced 1 to 3 percentage points as a result of a strong national power grid without reduction of present reliability standards.

The continuing trend toward summer peaks nationwide reduces load diversity.

There is merit to linking the Southwest Power Pool with the Electric Reliability Council of Texas.

The only way a link between the West and the Midwest would be feasible is if large mine-mouth generating facilities are built in the western coal areas.

Substantial savings can be realized through reduced system reliability. Reducing reserves to a level of 15 percent of projected annual peak demand would yield total present value *savings over 10 years of about $20 billion.* Reducing reserves to 17.5 percent of peak demand would yield comparable savings of $9.5 billion.

FPC needs authority to order wheeling of power and the related facilities without declaring a state of emergency.

Small utilities which do not currently have access to power pools would benefit from a national grid open to all.

In several parts of the study, the authors state that there appears to be no economic justification for establishing a separate national grid because the benefits would not match the costs. It should be noted here that while Congressman Ottinger's and my legislation (S. 1208 and H.R. 5048) contemplates changes in ownership and operation of the existing grid system and any necessary additions, it does not provide for the establishment of a separate, duplicative grid system.

One primary problem regarding the study was that the authors were forced to rely on data supplied by Edison Electric Institute, National Electric Reliability Council, and other industry sources, as well as the Federal Power Commission, National Regulatory Commission and Federal Energy Administration, which are themselves largely reliant upon sources within an industry which strongly opposes a national grid. In fact, the only substantial study of load diversity to date has been by EEI, on its own data for the years 1962–71.

The study is admittedly and necessarily preliminary. And it does not address—nor were the authors asked to address—the merits of public ownership and control of a national power grid. Indeed, many of the benefits projected to be derived from a national grid system relate to the areas which were not covered by this study. Such issues as the need for common carrier rights in

power transmission, the ability of an integrated grid system to promote competition among wholesale power generation units, and the efficiencies to be realized from coordinated national planning in this capital intensive area involve social considerations as much as technological considerations.

I sent copies of the report to several organizations that are directly concerned with and knowledgeable about improved transmission systems. They are the American Public Power Association, R. W. Beck and Associates, Edison Electric Institute, Ken Holum & Associates, the Missouri Basin Systems Group and the National Rural Electric Cooperative Association. The study and the excellent comments together provide the most authoritative commentary on a national power grid that has ever been asembled in this country. It will, I believe, be a useful document to us within the Interior Committee, to the Congress and to all segments of the power industry. I therefore request that it be published as a committee print.

LEE METCALF,
Chairman, Subcommittee on Minerals, Materials and Fuels.

CAPITOL HILL FORUM

Mr. CHURCH. Mr. President, I congratulate the Capitol Hill Forum on its first anniversary of publication, and to wish Publisher Alison Freeman well in the year to come.

The Capitol Hill Forum has served Congress admirably in its first year. Being the only paper to focus primarily on congressional and political developments, the Forum has demonstrated its capacity to cover a wide range of subjects from the arts and humanities to Presidential primary coverage. The fact that many articles have found their way into the RECORD further demonstrates the Forum's capacity to focus on issues that are topical and in need of congressional and national recognition.

As a reader of many publications, I am always personally pleased to come across something that both holds my interest and seems to capture the pulsebeat of whatever it is covering. The Capitol Hill Forum does that. It also seems to be willing to take on any issue, whether in foreign policy or on the domestic side, and it shows an energy in going after stories which are also covered elsewhere, sometimes after initial coverage by the Forum.

The first year is always a testing time for any publication, and I am certain the Capitol Hill Forum is not without its share of headaches. I want to personally extend my continued interest in this publication, and to wish all concerned with it special good fortune in issues to come. This is a paper that members and staff alike read and look forward to reading. I know I will continue to study its articles in the future.

ADDRESS BY DAVID LLOYD KREEGER TO GEORGE WASHINGTON UNIVERSITY CONVOCATION

Mr. PELL. Mr. President, I am pleased to bring to the attention of my colleagues an excellent address by Mr. David Lloyd Kreeger at a recent convocation at George Washington University.

Mr. Kreeger examines our national priorities and reaches the conclusion that the arts are too often relegated to a minor role. He emphasizes their central importance and deep meaning to us all.

Mr. Kreeger's leadership in the arts is well known to many of us. His generosity and his abilities have made that leadership particularly significant to the development of the arts in our Nation's Capital. He combines the discernment of a collector with the talents of a musician. He speaks of the arts with profound knowledge and understanding of their values.

As chairman of the Senate Subcommittee on Arts and Humanities since its inception more than 10 years ago, I find Mr. Kreeger's address both instructive and eloquent, in its appraisal of the arts in terms of historic perspective and in its assessment of their benefits and potentials in an enlightened society.

Mr. President, I ask unanimous consent that this address be printed in the RECORD.

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

ADDRESS BY DAVID LLOYD KREEGER TO GEORGE WASHINGTON UNIVERSITY CONVOCATION

Chairman Phillips, President Elliott, honored guests, ladies and gentlemen of the graduating class, friends: Doctors recommend periodic examinations for everyone who reaches middle age. Certainly a checkup would do no harm to an even older body—say, a body politic celebrating its 200th birthday. But how does one measure the health and strength of a Nation and its people? Should we consult the economic thermometer that tells us the percentage of *unemployed*, the rate of inflation, the per capita income of the population, the level of the stock market, the profits of industry? Should we use a more humanistic measure—the average life expectancy of the American people, the rate of infant mortality, the incidence of disease and epidemics, the crime rate, the quality of nutrition, housing and health care? Or should we count our missiles, our submarines, our warplanes, and compare them with those of rival nations?

All these criteria have been used and cited in varying contexts to show America's strengths and weaknesses. One measure is commonly ignored, however, or at least relegated to a minor role—the state of the arts. If the apportionment of government expenditures among its multifold activities indicates the relative values of the inhabitants, military power would clearly head the list of our National concerns. In the Administration's budget for the coming fiscal year, 112.3 billion dollars are allotted to defense and little more than one one-thousandth that sum to the arts and humanities.

This imbalance of emphasis is hardly a modern phenomenon. In 1482 a young Italian wrote to the Duke of Milan seeking employment and listing his skills "in the art of inventing instruments of war," such as cannons and mortars, steel catapults, armored ships and wagons, devices for demolishing fortresses, burning bridges and scaling battlements and the secret of "noiselessly constructing subterranean passages underneath trenches or rivers." To this impressive recital of his qualifications, the applicant added, as though by an afterthought:

"I can further execute sculpture in marble, bronze, or clay, also in painting I can do as much as anyone else, whoever he may be."

The 30 year old writer of this letter was none other than Leonardo da Vinci, who obviously knew which things came first with the Duke, and he got the job. While history acknowledges Leonardo's inventive genius in virtually every field, surely his greatest legacy to posterity resides in his art.

More recently, at the hearings before a House Committee on a bill to renew the appropriation of $76 million for the National Endowment for the Arts, a Congressman asked Nancy Hanks, the Chairman of the Endowment, how she could justify spending Federal funds on the arts when the unemployment rate was 8%. We may be sure that this question was not asked at the hearings on the bill to appropriate more than a thousand times that amount for military hardware.

But for that matter, why shouldn't the arts be placed on the lowest rung of the budgetary ladder? Does a nation really need the fine arts, the performing arts, the visual arts? Our learned forebears answered this in the affirmative, finding a utilitarian justification for the arts as an essential counterpoise to the stresses of an industrial civilization. David Hume, the 18th century English philosopher, said that the arts "draw off the mind from the hurry of business;" Goethe at about the same time wrote of "the rapture which men know after work," whether as creative artists or as spectators; Emile Zola a century later stressed the need of "tired mental workers" for a "holiday of illusion;" and the poet Baudelaire told the "gentlemen of the bourgeoisie—whether lawyers or businessmen—you need art to refresh you after your daily labors."

Artists themselves sometimes defined their role as tranquillizers. In 1888 Vincent Van Gogh wrote to his brother: "In a picture I want to say something comforting as music is comforting." And Henri Matisse 20 years later described his objective as—

"An art of balance, of beauty and serenity devoid of any troubling or depressing subject matter, an art which might be for every mental worker, be he businessman or writer, like an appeasing influence, like a mental soother, something like a good armchair in which to rest from physical fatigue."

This view was not the exclusive prerogative of a capitalist society intent on subduing the restless or dissatisfied worker. In 1919 Lenin wrote that "a theatre is necessary, not so much for propaganda as to rest hard workers after their daily work. And (he added) it is still too early to file away in the archives our heritage from bourgeois art."

The relaxing and comforting effect of art is surely not its only justification. At the dedication of the Pennsylvania Academy of Art in Philadelphia in 1807, Benjamin Latrobe emphasized that art is an indispensable element in a democracy, providing a healthful recreation for the growing democratic leisure and a mark of the cultural character of the time for posterity. Because of its art, he said, Athens and not Sparta survives as a precious treasure of all time. There is thus a multiple aim in the concern for art: to bring lustre to the nation, to elevate the public taste and to educate artists and the public alike.

Indeed, one of the founding fathers of our Republic, John Adams, believed that art was our ultimate goal.

"I must study politics and war," he wrote, "so that my sons may have liberty to study mathematics and philosophy, to give their children a right to study painting, poetry and music."

It seems hardly necessary to expand upon the virtues and the values of art. To appreciate its indispensability one need only imagine what our cities, our nation, would be like without a concert hall, a theatre or a museum.

If we then turn to the state of the arts as a measure of the health and vitality of our nation and its people, what is the condition of our 200-year old patient? I submit that our patient is in pretty fair condition for its age and has a high potential for im-

provement if given the proper treatment and care.

The cultural resources of our Nation include not only the performing and visual arts, but also literature, architecture, the cinema and other creative endeavors. However, I shall address myself mainly to those with which I have had some experience—the performing and the visual arts.

The performing arts are in plentiful supply throughout the United States, a testament to the tastes and interests of a sizeable segment of the population and of the organizations which maintain and nurture the arts.

The performing art with the earliest historical roots in America is the symphony orchestra, which first appeared in New York in 1842. Today there are approximately 1400 orchestras in the country, including about 100 fully professional symphonies, the so-called "metropolitan orchestras". Of these 30 are the major orchestras with annual budgets of over $1 million, located in the largest urban areas. American symphony orchestras collectively play over 6,000 concerts per year for an audience of nearly 8 million, at a total operating cost of almost $100 million.

The opera in America was likewise an early phenomenon, beginning in the middle of the nineteenth century with imported companies that featured singers of international reputation and penetrated the interior of the United States. One of the first native opera companies was the Metropolitan in New York, founded in 1883 and today by far the largest and most famous opera company in America. Today about 60 opera companies are functioning in the United States, and in a typical year they give over 1200 performances of some 275 opera productions for an audience of more than 2½ million, at a collective operating cost of over $40 million.

When we speak of theatre, Broadway usually comes to mind, but the fact is that non-profit theatre groups today present more than twice the number of plays that appear in New York on Broadway and off-Broadway combined. In the first quarter of the ninetenth century, the exposure of most Americans to theatre at a professional level was chiefly through the Broadway road companies, community theatres and little theatres. The latter became the tributary for the non-profit groups originally known as winter stock companies. They were usually housed in small, arena type buildings with an intimacy that suited the best American writing for the stage, exemplified by playwrights such as Tennessee Williams. These companies soon established a fully professional reputation, and by the mid-60's actors found more continuous professional employment in any one season among the resident non-profit theatres around the country than on the New York commercial stage. This movement has decentralized the dramatic art in the United States and has led to the creation of more permanent professonal theatres throughout the United States than had ever existed before. The 30 or so theatres in this group produce over 300 plays in some 8,000 performances for an audience of well over 3 million, and collectively expend some $25 million in the process.

Dance in its grandest manner came to the United States in the fall of 1916 when Serge Diaghilev's Ballet Russe opened at the Metropolitan Opera House, and then toured the East and the mid-West.

In 1940 the American Ballet Theatre was formed, and a few years later the New York City Ballet made its debut under the direction of George Balanchine, a Russian emigre from the Diaghilev period. The interweaving of Russian with American choreographic ideas produced the ballet now flourishing as an American art form. Within a few short years the ballet, which formerly seemed a foreign and exotic art, has been given an American flavor that has widely increased its acceptance and popularity. Today about 10 American ballet companies in a typical year present almost 500 dance productions in over 1000 performances to more than a million and a half fans, at a collective annual operating cost of some $15 million.

Finally, a word about an art form that is as indigenous to America as jazz—modern dance, characterized by free and expressive and often spontaneous movements with the dancers acting as their own choreographers. The exemplar and most popular figure in the modern dance world is Martha Graham, but there are about 10 other groups using this medium. Collectively they present about 200 dance productions in some 750 performances for an audience of about 500,000 at a total operating cost of over $2½ million. It is worth noting that the paying audience for ballet and dance is now four times as large as it was a decade ago.

The attendance figures I have cited for each performing art form seem impressive, but the fact is that the full potential has hardly been scratched. A recent survey made for the Ford Foundation, consisting of a representative sampling of the adult residents in 12 major metropolitan areas, revealed that while almost everyone had seen a movie in the cinema or on TV, only 16% had been to a live theatre, no more than 10% had ever attended a symphony concert, and a bare 4% had witnessed an opera or ballet. While these percentages are much larger than they were a decade ago, it may be impossible for the performing arts to capture the fancy of the majority. As the late impresario Sol Hurok observed, "if people don't want to come, nothing can stop them." Even Samuel Johnson, that paragon of culture, defined music as "the least disagreeable of all noises." And sometimes opera can seem mighty strange to the neophyte—as witness the story of the little boy taken to his first opera performance who asked his father: "Why is that man shaking his stick at the lady?" His father replied: "Hush, that's the conductor and he isn't shaking his stick at her." "Then," asked the youngster, "why is she screaming?"

But there are many encouraging signs. A professional symphony orchestra is to be found in or near virtually every American city with at least 100,000 population and in the past 10 years the number of concerts given by the major orchestras has almost doubled. Audiences have grown faster than the national population, and in most communiites the symphony orchestra is the single strongest force for music and the performing arts and basic to a community's self-esteem.

Turning now to the visual arts, we find a far better public response, perhaps because visual art has always been a part of man's environment. In prehistoric times the house of art was the cave, and as civilization developed, art moved to the temple, the palace and the cathedral. Art was for centuries a prerogative of the princes and the priests, but the French Revolution and Napoleon created the first real art museum for the public, the Louvre, as a visible manifestation of European empire in the fine arts. In the United States, art museums first appeared about 20 years after the birth of the nation, one of the earliest being the Boston Athenaeum founded in 1807. The Corcoran Gallery, which appeared in 1869 in the building designed by James Renwick on 17th and Pennsylvania Avenue, was the first museum in Washington, antedating the great museums of New York, Boston, Philadelphia and Chicago. Since then museums have proliferated and become recognized institutions for delight and education, serving as custodians of knowledge and culture, as reporters of the contemporary artistic scene, and as an educational source in our pluralistic society. Today there are about 340 art museums in the Nation which attract some 45 million visitors annually, of whom about one-third are frequent attenders. It is estimated that almost half of the adult U.S. Public have been to an art museum.

Art museums are far outnumbered by those devoted to history, science and technology, and in all there are more than 1800 museums of all kinds in the United States. They have a total operating budget of over half a billion dollars and collectively record more than 300 million visitors annually—more than the combined attendance at sports events.

In this day of technically proficient reproductions, good prints of great paintings are widely disseminated and are framed, hung and enjoyed, exerting a greater influence on the public than the original. I am reminded of the story about the young lady who took her grandmother to the Huntington Museum in Pasadena for the first time, and pointed out the "Blue Boy," saying "Grandmother, this is one of the most famous paintings in the world. It was painted by the great English artist Thomas Gainsborough and it is worth over $1 million." Grandmother was incensed: "What nerve" she said, "all he did was copy the calendar picture I've had in the kitchen for years!" Gainsborough, perhaps the finest portrait painter of the 18th century, is the subject of an anecdote which is hardly apropos, but which I cannot resist dragging in by the ears. An eccentric nobleman refused to pay Gainsborough for a portrait, complaining that "it makes me look like an ape," to which the haughty artist icily replied "You should have thought of that before you had it painted."

The apparent apathy of a large segment of the American public to the performing and visual arts is a troublesome problem, but there are encouraging signs that attendance is improving, and in any event the untapped public poses a stimulating challenge to the arts institutions. A far more serious threat to these cultural resources is the ever increasing difficulty of financing them. The performing arts derive only a portion of their essential revenues from the sale of tickets, ranging from less that 50% for symphony orchestras to about 65% for ballet and non-profit theatres. Museums obtain less than 30% of their total revenues from admissions. The artistic freedom and goals of these art groups make it impossible for them to limit their spending to the receipts from admissions, and the gap must therefore be filled from other sources, such as government grants, contributions from foundations, corporations and the general public and income from endowment funds.

A recent study by the Ford Foundation of 166 performing arts organizations showed that during the six-year period 1965 to 1971 private local contributions doubled, as did the operating budgets of these institutions, but that at least half of the groups nevertheless suffered recurring deficits, and collectively lost over $8 million in those years. Worse yet, the Ford Foundation report somberly predicts that with continued inflation and the pressure of performers' salaries to keep pace with those in other trades, the gap between expenditures and earned income will quintuple by 1980, requiring contributions from the public and the government to increase on the order of 7 times simply to maintain the current position of the performing arts. A similar difficulty confronts the visual arts. Most of the 340 art museums in the United States are governed by private non-profit organizations, deriving almost 60% of their required revenues from government agencies, foundations, and individual and corporate contributions.

The art groups are thus faced with a difficult dilemma: Their earned income is necessarily limited, while operating costs must inexorably rise, since salaries constitute from 60 to 75% of total expenditures and will increase with the cost level of the economy. What is the solution?

Some have suggested that the symphony and the opera with its highly expensive musicians and stars are dying forms, bound to be superseded by electronic devices, or to be reduced to a handful of companies traveling from city to city. These suggestions are no more attractive than those advanced tongue-in-cheek a few years ago by an English management consultant who was commissioned to improve the efficiency of a symphony orchestra. He submitted several recommendations: First, he said there is no point in having all 16 violins playing identical notes. Why not cut them down to one violinist and add electronic amplification?

Second, he saw much unnecessary effort in playing 32nd notes. Round them out to the nearest 8th note, he suggested, and you can hire lower-priced trainees. Third, he found too much repetition of musical passages. What useful purpose is served, he asked, by repeating on the horns a passage already handled by the strings? He recommended eliminating all redundant passages, thereby reducing the usual 2 hour concert time to 20 minutes and eliminating the intermission.

His fourth recommendation was truly ingenious. Many musicians, he noted, are using one hand for no other purpose than to hold the instrument. If you install a fixture for this purpose, he said, it would free the idle hand for other work.

I have no information as to whether these recommendations were adopted nor how the orchestra sounded if they were.

There are less radical if less imaginative alternatives than those mentioned. The National Endowment for the Arts, which was established by Act of Congress in 1965, began with a modest appropriation of $2½ million, which within 10 years has increased to $80 million. While this is a truly impressive growth, it is still equivalent to only 35¢ per capita of the American population, which compares unfavorably with the $2 and more per capita spent on the arts by Austria, Great Britain, Germany, Sweden and even as small and beleaguered a nation as Israel. An inspiring example to all States is to be found in the New York State Arts Council, which increased its budget from $2.3 million in 1970 to $34 million last year, far and away the largest and most generous arts subsidy of any state in the Union. Corporate support for the arts has also improved, from $110 million in 1970 to $144 million in 1973, but still represented little better than 2% of all corporate profits.

That the American public can rise to meet the financial emergency in the arts is the comforting moral to be drawn from a Harris Survey made in 1974 for the Associated Councils of the Arts. It found that 38% of the American people believe that cultural organizations should receive direct support from the government, but even more significantly that 64% would be willing to pay an extra $5 to $50 in taxes to support art and culture. . . .

So while the financial horizon is cloudy and threatening, there is no reason for despair about the future of the arts in America. Just as our nation had the resourcefulness and persistence to tame the wilderness, to establish a free and independent political entity that has survived intact for two centuries, to industrialize our economy, to create a standard of living second to none and to spread the benefits thereof among a wider spectrum of the population than in any other country—and has accomplished this while preserving an unmatched record of civil liberties—so we can meet the financial challenge that faces the performing and visual arts and in due course succeed in making them as great and admirable a national asset as our industrial and financial institutions.

The help and support of the younger generation towards this objective is essential if America is to be known to posterity as the Athens rather than the Sparta of the Western world.

REGULATION OF OVERREGULATION?

Mr. FANNIN. Mr. President, few scholars have contributed more insight and information to the current debate over Government regulation of business than Dr. Murray L. Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis. I wish to call to the attention of my colleagues two excellent contributions by this distinguished economist and former Assistant Secretary of the Treasury which were published by the American Enterprise Institute, where he is an adjunct scholar, and the Wall Street Journal.

In a short AEI study, Professor Weidenbaum discusses the new wave of Government regulation and analyzes the differences between the older more traditional Federal regulatory agencies, such as the ICC and the CAB, which have come under heavy attack for being captives of industries they regulate, and the newer more popular agencies which deal with more limited spheres of industry while operating under a broader legislative charter. Although these newer agencies have not yet been taken over by the special interests they are supposed to regulate, as Dr. Weidenbaum observes, they still suffer from the same regulatory problems which have long plagued longer established agencies.

In Weidenbaum's view:

Rather than being dominated by a given industry, the newer type of federal regulatory activity is far more likely to utilize the resources of various industries, or to ignore their needs, to further the specific objectives of the agency.

And although he does not quarrel with those objectives, Weidenbaum concludes that—

No realistic evaluation of government regulation comfortably fits the notion of benign and wise officials making altogether sensible decisions in the society's greater interests. Instead, we find waste, bias, stupidity, concentration on trivia, conflicts among the regulators and, worst of all, arbitrary and uncontrolled power.

Dr. Weidenbaum elaborated on this theme in a speech he delivered last month in Dallas, Tex., which was reprinted in abridged form in the Wall Street Journal. In this article Weidenbaum discusses the direct and hidden costs of Federal regulation. As he observes:

The costs of government regulation are rising far more rapidly than the sales of the companies being regulated. Regulation literally is becoming one of the major growth industries in the country.

In both the Journal and AEI articles, Dr. Weidenbaum documents the problems created by the proliferation of Government controls, such as the reduced rate of technological innovation; the arbitrary disregard of civil liberties and individual freedoms; the increased preoccupation with minor details rather than basic objectives; the growing conflicts within agencies and between contradictory regulatory standards; the gradual shift of decisionmaking and responsibility away from professional management and toward a cadre of Government bureaucrats and regulators.

In both articles Dr. Weidenbaum emphasizes the point that regulation can have important and positive benefits. No one can seriously quarrel with trying to promote improved working conditions, cleaner air, purer water, safer products, or an end to job and sex discrimination. The problem, however, is to achieve proper "balance and moderation" in regulation, rather than overregulation, to advance rather than impede positive economic and social goals. To this end, Dr. Weidenbaum calls for reasonable and comprehensive regulatory reform. As he states:

To restore common sense to government is a major challenge for all of us.

Mr. President, I ask unanimous consent that the excerpts I have chosen from Murray Weidenbaum's AEI study on "The New Wave of Government Regulation of Business" and the complete text of his article, "Regulation or Over-Regulation?" from the Wall Street Journal of April 6, be printed in the RECORD.

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

THE NEW MODEL OF GOVERNMENT REGULATION

The traditional notion of government regulation of business is based on the model of the Interstate Commerce Commission: A federal commission is established to regulate a specific industry, with the related concern of promoting the well-being of that industry.

In some cases—because of the unique expertise possessed by the members of the industry, or its job enticements for regulators who leave government employment—the regulatory commission becomes a captive of the industry it is supposed to regulate, and the public or consumer interest is subordinated or even ignored. At least, this is a popular view of the federal regulatory process. In addition to the ICC, other agencies which have been criticized on this ground include the Civil Aeronautics Board, the Federal Communications Commission, and the Federal Power Commission.

Although that type of federal regulation of business surely may continue, the new regulatory efforts established by the Congress in recent years generally follow a fundamentally different pattern. The new federal agencies are broader in scope than the ICC-CAB-FCC-FPC model. Yet in important aspects, they are far more restricted. In the cases of the Environmental Protection Agency, the Equal Employment Opportunity Commission, the Consumer Product Safety Commission, the Federal Energy Administration, and the Occupational Safety and Health Administration, the regulatory agency is not limited to a single industry. Their jurisdictions extend to the bulk of the private sector and, at times, to the public sector as well. It is this far-ranging reach that makes it impractical for any single industry to dominate these regulatory activities in the manner of the traditional model.

Yet, in comparison to the older agencies, the newer federal regulators, in many important ways, operate in a far narrower sphere. That is, they are not concerned with the totality of a company or industry, but only with the segment of operations which falls under their jurisdiction. This limitation prevents the agency from developing too close a concern with the overall well-being of any company or industry. Rather, it may result in

total lack of concern about the effects of its actions on a specific company or industry.

If any special interest may come to dominate such an agency, it is the one that is preoccupied with its specific task—environmental cleanup, elimination of job discrimination, establishment of safe working conditions, reduction of product hazards, and so forth. Thus, the basic mission of the industry to provide goods and services to the public may get little attention. And matters broader than the specific charter of the regulating agency—such as productivity, economic growth, employment, effect on overall living standards, inflationary impacts—also may be ignored. At times the process may seem to be epitomized by the proverbial dentist who sees his patient as merely two rows of teeth surrounded by a mass of miscellaneous material.

The result may be a reversal of the traditional situation. Rather than being dominated by a given industry, the newer type of federal regulatory activity is far more likely to utilize the resources of various industries, or to ignore their needs, to further the specific objectives of the agency. My personal study of the activities of these new regulatory agencies reveals many negative aspects of considerable importance.

I do not quarrel with the intent of the new wave of federal regulation: safer working conditions, better products for the consumer, eliminating discrimination in employment, reducing environmental pollution, and so forth. And the programs established to deal with these problems have at times yielded significant benefits. But no realistic evaluation of government regulation comfortably fits the notion of benign and wise officials making altogether sensible decisions in the society's greater interests. Instead we find waste, bias, stupidity, concentration on trivia, conflicts among the regulators, and, worst of all, arbitrary and uncontrolled power.

The agencies carrying out federal regulation are proliferating. In the past decade alone we have seen the formation of the Consumer Product Safety Commission, the Environmental Protection Agency, the Federal Energy Administration, the Cost Accounting Standards Board, the National Bureau of Fire Prevention, the Mining Enforcement and Safety Administration, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration, to cite the better-known ones.

The administrative cost of this army of enforcers (approximately $3 billion a year to support a regulatory work force in excess of 74,000) is quite substantial (see table on page 5). But that expense is only the tip of the iceberg. It is the costs imposed on the private sector that are really large, the added expenses—which inevitably are passed on to customers—of complying with government directives. A direct cost of government controls is the growing paperwork burden imposed on business firms: the expensive and time-consuming process of submitting reports, making applications, filling out questionnaires, replying to orders and directives, and appealing some of the regulatory rulings in the courts. There now are 5,146 different types of approved government forms. Individuals and business firms spend millions and millions of work-hours a year filling them out.

Another hidden cost of federal regulation is the reduced rate of technological innovation. The longer it takes for some change to be approved by a federal regulatory agency—a new product or a more efficient production process—the less likely it is that the change will be made. A recent case is the new asthma drug beclomethason dipropionate (let us call it BD). Although this drug has been used by millions of asthma patients in the United Kingdom, it still has not received the approval of the U.S. Food and Drug Administration. BD is described as a safe and effective replacement for the drugs which are now administered to chronic asthma patients, but without the adverse side effects of the drugs now in use in the United States. Unlike BD, the steroids currently used in this country, such as prednisone, can stunt growth in children, worsen diabetes, and increase weight through water retention. The delaying procedures of the FDA not only are increasing costs to drug manufacturers, but also are preventing American consumers from having access to BD

The large private costs of government regulation sometimes arise from the attitudes of the regulators. Take the question of industrial noise. Reluctant to depend on earplugs and similar hearing protectors, EPA and OSHA are mandating extremely expensive engineering changes. The cost to industry of achieving the current ninety-decibel OSHA standard is estimated at "only" $13 billion. EPA, however, is attempting to obtain a quieter eighty-five-decibel level, at an estimated cost of $32 billion.

FEDERAL EXPENDITURES FOR BUSINESS REGULATIONS

[Fiscal years, in millions of dollars]

Agency	1974	1975	1976
Agriculture	330	376	381
Health, Education and Welfare	145	173	189
Interior	59	74	79
Justice	270	345	383
Labor	231	343	397
Transportation	178	212	234
Treasury	246	306	320
Civil Aeronautics Board	89	85	85
Commodity Future Trading Commission	....	....	11
Consumer Product Safety Commission	19	43	37
Equal Employment Opportunity Commission	42	54	60
Federal Communications Commission	33	127	208
Federal Energy Administration	38	49	50
Federal Power Commission	27	37	36
Federal Trade Commission	32	41	45
International Trade Commission	7	9	10
Interstate Commerce Commission	38	47	50
National Labor Relations Board	55	63	70
National Transportation Safety Board	8	10	10
Nuclear Regulatory Commission	80	139	198
Securities and Exchange Commission	35	45	49
All other agencies	17	21	23
Total	1,979	2,599	2,925

REGULATING TOILETS

The Council on Wage and Price Stability has urged both OSHA and EPA to study the costs and benefits of the standards. It points out that lowering allowable noise from ninety to eighty-five decibels would cost industry $19,828 a person—a sum more than adequate to provide comfortable and effective personal hearing protectors. But cost apparently is not an important factor to federal regulators.

The lack of attention to the costs of regulation gives bureaucrats the opportunity to engage in all sorts of trivia. What size to establish for toilet partitions? How big is a hole? (It depends where it is.) When is a roof a floor? What colors to paint various parts of a building? How frequently are spittoons to be cleaned? The public's taxes actually support people who are willing to establish and administer regulations dealing with these burning issues.

CONFLICTS AMONG REGULATIONS

The proliferation of government controls has, perhaps inevitably, led to internal conflicts. In some cases, the rules of a given agency work at cross-purposes with each other. OSHA mandates back-up alarms on vehicles at construction sites. Simultaneously the agency, to protect employees against noise, requires them to wear earplugs that can make it extremely difficult to hear the alarms. More serious and more frequent are the contradictions between the rulings of two or more government agencies where the regulated have little recourse. Federal food standards require meat-packing plants to be kept clean and sanitary. Surfaces which are most easily cleaned are usually tile or stainless steel. However, these are highly reflective of noise, and may not meet OSHA noise standards.

A controversy over rest rooms furnishes another example of conflict among regulations; it also demonstrates that common sense is in short supply in the administration of government controls. The Labor Department, carrying out its weighty responsibilities under the Occupational Safety and Health Act, has provided industry with detailed instructions concerning the size, shape, dimensions, and number of toilet seats. For well-known biological reasons, it also requires some type of lounge area to be adjacent to women's rest rooms.

However, the EEOC has entered this vital area of government-business relations and requires that male toilet and lounge facilities must be equal to the women's. Hence, either equivalent lounges must be built adjacent to the men's toilets or the women's lounges must be dismantled, OSHA and state laws to the contrary notwithstanding. To those who may insist that nature did not create men and women with exactly identical physical characteristics and needs, we can only reply that regulation, like justice, must be blind.

[From the Wall Street Journal, Apr. 6, 1976]

REGULATION OR OVER-REGULATION?

(By Murray L. Weidenbaum)

Business has been taking it on the chin as revelations of so-called political slush funds have been uncovered. It is altogether fitting that lawbreaking be exposed and punished. Corporate contributions to federal election campaigns are illegal. Yet there is another aspect of these illegal business contributions to political causes which has been ignored. When we turn to more traditional types of crime, we find that the progressive thinking is not limited to punishment, but it extends to uncovering the causes. By identifying the conditions that breed crime, it is hoped that public policy can be modified so as to reduce or eliminate those conditions.

A parallel can be drawn to the Watergate-related cases of unlawful corporate political contributions and their attempted coverup. The dominant underlying motive for these illegal acts was not commonly a desire to enrich the individual corporate executives who were involved, or even to enhance their positions in the company. Nor was the typical motive the desire to get the federal government to grant a particular favor to the firm ("favors" in the form of government contracts were the object of many of the payments to citizens of other nations).

Rather, the illegal contributions were usually a response, often reluctant, to the demands from the representatives of a powerful government which was in the position to do great harm to the company. Whether the government would abuse its vast power in the absence of an adequate payment was a risk that many managements decided not to take. But it is not surprising that so many of the executives who were implicated held positions in corporations that are dependent upon government in important ways—firms that hold large defense contracts, airlines that have government-approved route structures, and companies that are recipients of special subsidies or are subject to stringent federal regulation.

"PROTECTION" MONEY

It may not be too wide of the mark to consider many of those illegal corporate payments as a form of "protection" money given to prevent action harmful to the company. Viewed in this light, the underlying cause of this particular type of white collar crime does not arise in the company itself but in the tremendous and arbitrary power that society has given the federal government over the private sector.

Thus the eradication of this particular form of white collar crime involves more than tighter auditing standards and improved laws on political financing. It also requires abstaining from the further expansion of governmental power over the private sector.

My basic point should not be misunderstood. Lawbreaking, whether by business executives or others, should not be condoned. It should be ferreted out and punished according to law. Simultaneously, it is naive—and ineffective as well—to ignore the basic political forces that give rise to the lawbreaking.

Yet a massive expansion of government controls over industry is now underway. Government officials are playing a larger role in what traditionally has been internal business decision-making. But it is difficult to criticize their basic mission. After all, who is opposed to safer working conditions, better products for the consumer, elimination of discrimination in employment, or reduction of environmental pollution? And in fairness we must acknowledge that the programs established to deal with these problems have yielded benefits to the nation.

But the costs of over-regulation of business are felt by our citizens in many ways. It adversely affects the prospects for economic growth and productivity by levying a claim for a rising share of new capital formation. This is most evident in the environment and safety areas.

In 1969, the total new investment in plant and equipment in the entire manufacturing sector of the American economy came to $26 billion. The annual totals rose in the following years, to be sure. But when the effect of inflation is eliminated, it can be seen that four years later, in 1973, total capital spending by U.S. manufacturing companies was no higher. In "real terms," it was approximately $26 billion both in 1969 and 1973.

PLANT SHUTDOWNS

In 1973, a much larger proportion of capital outlays was devoted to meeting government regulatory requirements in the pollution and safety area—$3 billion more, to be specific. Hence, although the economy and its needs had been growing substantially in those four years, the real annual investment in modernization and new capital had actually been declining. The situation was worsened by the accelerated rate at which existing manufacturing facilities were being closed down because the rapidly rising costs of meeting government regulations meant that they were no longer economically viable.

Specifically, about 350 foundries in the U.S. have been closed down in the past four years because they could not meet requirements such as those imposed by the Environmental Protection Agency and the Occupational Safety and Health Administration. This may help to explain why the American economy, for a substantial part of 1973, appeared to lack needed productive capacity, despite what had been large nominal annual investments in new plant and equipment in recent years.

The agencies carrying out federal regulations are proliferating. In the past decade alone, we have seen the formation of the CPSC, the EPA, the FEA, the CASB, the NBFP, the MESA, the NHTSA, and the OSHA. That's just some of the alphabet soup.

The cost of maintaining this army of enforcers is huge: $3 billion a year of tax dollars is devoted to supporting a regulatory workforce in excess of 74,000 people. The costs of government regulation are rising far more rapidly than the sales of the companies being regulated. Regulation literally is becoming one of the major growth industries in the country. But this represents only the tip of the iceberg. It is the costs imposed on the private sector that are really huge, the added expenses of business firms which must comply with government directives, and which inevitably have to pass on these costs to their customers.

One direct cost of government controls is the growing paperwork burden imposed on business, the expensive and time-consuming process of submitting reports, making applications, filling out questionnaires, and replying to orders and directives. Here is a striking example. One large oil company is required to file approximately 1,000 reports annually to 35 different federal agencies.

In the first half of 1975, the Standard Oil Company of Indiana had to add to its list of required paperwork 16 major new reports to be submitted on a regular basis. It must report its oil and gas reserves to the FEA, the FPC, the FTC and the Geological Survey. Each report must take a somewhat different form. It requires 636 miles of computer tape to store the data that Standard must supply to the FEA. In total, Indiana Standard has 100 full-time employes whose work is centered around meeting federal regulations, at an annual cost of about $3 million.

Another hidden cost of federal regulation is a reduced rate of introduction of new products. The longer that it takes for some change to be approved by a federal agency the less likely the change will be made.

The Food and Drug Act is delaying the introduction of effective drugs by about four years. As a result, we are no longer the leaders in medical science. The U.S. was the 30th country to approve the anti-asthma drug metaporoterenol, the 32nd country to approve the anti-cancer drug adriamycin, the 51st country to approve the anti-tuberculosis drug rifampin, the 64th country to approve the anti-allergenic drug cromolyn, and the 106th country to approve the anti-bacterial drug co-trimoxazole.

The proliferation of government controls inevitably has led to conflict among controls and controllers. In some cases, the rules of a given agency work at cross purposes with each other. More serious and more frequent are the contradictions between the rulings of two or more government agencies where the regulated have little recourse.

Federal food standards require meat-packing plants to be kept clean and sanitary. Surfaces that are easiest to clean are usually tile or stainless steel. But tile and stainless steel are highly reflective of noise. They may not always meet the standards set for occupational safety and health.

Each regulatory agency seems to be exclusively preoccupied with its own narrow interest, and is oblivious to the effects of its actions on the company, a whole industry, or even to society as a whole.

Instances of waste and foolishness on the part of government regulators pale into insignificance compared to the arbitrary power that they can exert. Many liberals are outraged by the arbitrary "no-knock" powers of federal investigative agencies, yet they readily ignore the unchallenged no-knock power used by federal agencies in their regulation of private business.

The Supreme Court has ruled that air pollution inspectors do not need search warrants to enter the property of suspected polluters as long as they do not enter areas closed to the public. The unannounced inspections, which were conducted without warrants were held not to be in violation of constitutional protections against unreasonable search and seizure.

The inspectors of the Labor Department's Occupational Safety and Health Administration (OSHA) can go further. They have no-knock power to enter the premises of virtually any business in the U.S., without a warrant or even prior announcement, to inspect for health and safety violations. Jail terms are provided in the OSHA law for anyone tipping off a "raid."

As in most things in life, the sensible questions are not matters of either-or, but rather of more or less and how. To an economist, it seems proper that government regulations should be carried to the point where the benefits equal or exceed the costs—and no further.

Government regulation needs to be taken carefully, in limited doses, and with full regard for all the adverse side-effects. We must avoid unwittingly overdosing the patient. Better yet, we must quit following the advice of well-meaning individuals who do not understand the consequences of their proposals.

A case in point is the matter of improving job safety. Society surely desires to reduce accidents that occur on the job and to this end Congress established a new agency with thousands of employes and an operating budget of several million dollars. The agency in turn has promulgated an array of rules, regulations, and requirements which have resulted in literally billions of dollars in private sector outlays—and in more complaints by business than on almost any other government program.

What have been the results? More forms are now filled out. More safety rules are posted. More inspections take place. More fines are levied. But, as shown by the available statistics, there has been no reduction in accident rates in American industry. In the case of the job safety program, as in numerous other areas of government involvement, the important original concern of the public and the Congress has been converted to the bureaucratic objective of not violating the rules and regulations.

UNPRODUCTIVE RULES

The emphasis shifts to such trivia as raising and answering these types of questions: How big is a hole? When is a roof a floor? How frequently must spittoons be cleaned? The results in terms of the safety objective are almost invariably disappointing.

A more satisfying answer requires a basic change in attitude, and one that is not limited to the job safety program. If the objective of public policy is to reduce accidents, it should focus directly on the reduction of accidents. Excessively detailed regulation often is a substitute for hard policy decision. Rather than issuing citations to employers who fail to fill out the forms correctly or who do not post the correct notices, the emphasis ought to be placed on those employers with high and rising accident rates.

But the government should not be concerned with how a specific company achieves the objective of a safer working environment. Some may find it more efficient to change work rules, others to buy new equipment, and still others to retrain workers. That is precisely the kind of operational business avoid, but which now dominates so many of these regulatory programs.

I am not proposing to eliminate all government regulation of business. We must realistically acknowledge the important and positive benefits that have resulted from many of the government's regulatory activities—in terms of less pollution, fewer product hazards, ending job discrimination, and achieving other socially desirable objectives of our society. But I am urging balance and moderation, so that business can help achieve the nation's social goals and can still fulfill the basic economic function of more efficient production and distribution of better goods and services. To restore common

sense to government is a major challenge for all of us.

THE GLOBAL CORPORATION

Mr. McGEE. Mr. President, the distinguished senior Senator from New York (Mr. JAVITS) is perhaps the leading expert in the Congress on international economic issues.

Having worked with him on the Senate Foreign Relations Committee and having served with him as a congressional adviser to the seventh special session of the United Nations last fall, I can personally attest to the knowledge and understanding he brings to a substantive discussion of highly complex, yet nevertheless, vital global issues confronting us today.

It was, therefore, with interest that I read his article in the March 26 Christian Science Monitor entitled, "The Global Corporation." Senator JAVITS offers us an insight into how the multinational corporations—MNC's—fit into the present global debate on international economic issues; the image problems MNC's presently face; and his recommendations for enhancing this image.

The MNC is neither the "saint" its proponents make it out to be or the ultimate "sinner" as characterized by its protagonists. The MNC can be the most effective mechanism for transfer of technology and resources so desperately needed by the developing nations of the world.

However, the so-called old way of doing business will become a greater albatross around the neck of the MNC unless self-corrective action is taken. Unfortunately, all MNC's are painted with the same broad brush; paying the penalty for the abuses of a few.

As Senator JAVITS noted in his concluding sentences:

Multinationals have demonstrated a great capacity for flexibility in adjusting to new investment conditions in developing countries, but such flexibility cannot be allowed to extend to corruption and interference in the affairs of the host country. If business cannot police itself, it cannot complain when governments step in.

I commend the article to the attention of my colleagues and urge they give it close consideration.

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

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

THE GLOBAL CORPORATION

(By Jacob K. Javits)

Recent events have caused a sharp focus on the role of the multinational corporation (MNC) in world development.

In December, 1974, the General Assembly of the United Nations overwhelmingly passed—with the United States one of six votes against—the Charter of Economic Rights and Duties of States, which incorporated the view of the developing countries regarding the application of their national laws to matters affecting MNCs. Pressure from the developing countries within the UN has continued, and the whole set of issues regarding world development was again under consideration at the Seventh Special Session of the UN in September, 1975.

At the same time, MNCs have been subjected to close scrutiny in the U.S., and Senate hearings have revealed a number of very disturbing cases of bribery and corruption abroad by U.S.-based MNCs.

Also, the abuses committed by MNCs as disclosed have gravely weakened their standing in the public mind. A recent Gallup Poll shows that big business has dropped to last place in public confidence. There evists a strong tendency for the public to believe that MNCs have little to recommend them, and thus to ignore those beneficial aspects that clearly exist in spite of the flurry of charges about the harmful aspects.

Although there is a very substantial divergence of opinion between the developing countries and the U.S. over the role of MNCs, a number of developing countries at least have moved beyond rhetoric and have devised laws and programs to insure that their countries receive the maximum benefit from multinational corporations. These actions include the call for joint ventures with governments, employment requirements, export commitments, local research and development, and limitations on transfer payments.

The fact that developing countries are acting to require that MNCs conform to their concepts of economic development is testimony to their recognition, on the one hand, of the importance of MNCs in technology and capital transfers and their concern, on the other hand, that the MNCs' worldwide operations may enable them to frustrate national objectives.

The European Community (EC) has recently taken a significant step in its internal approach to MNCs by proposing a European companies statute that would establish uniform laws among the nine EC member countries for those companies that elect European integration.

Both the actions of the developing countries and the EC proposal recognize that multinational corporations are the repository of unique talents and capabilities that need to be harnessed more directly to meet larger public purposes.

Although a major demand of the developing countries is for a large increase in the transfer of real resources from the developed to the developing countries, the fact is that the flow of public aid has steadily declined in the last decade. The sharp increase in the Organization of Petroleum Exporting Countries oil prices in the last year and a half has in effect cancelled out the benefits of public aid flows for the developing countries. Therefore, private foreign investment takes on new significance, both for the capital flows involved and for the technology and management skills which cannot in most cases be divorced effectively from direct investment.

However, the U.S. seems to be divided in its approach to the subject of MNCs in international organizations. On the one hand, the U.S. cannot agree either to the extreme demands among the developing countries for expropriation without adequate compensation or to provisions of national laws which give inadequate protection to the rights of investors. On the other hand, the U.S. has been reluctant to face the extent of corporate corruption abroad and the need for stronger action from the U.S. as the major home country of MNCs.

In view of the Seventh Special Session of the UN, it is essential this country resolve its own position and present positive proposals which can preserve the beneficial aspects of MNCs while checking the abuses which have caused elements of world opinion to lose faith in them.

The issue of international regulation of the activities of MNCs has been repeatedly discussed in recent years. For more than a decade attempts to draft international codes of conduct have been made by such groups as the International Chamber of Commerce, but adherence has been purely voluntary. The International Center for Settlement of Investment Disputes (ICSID) was set up under the auspices of the World Bank to provide an international forum for the resolution of investment disputes, but this Center has seldom been used because most developing countries prefer their national systems for dispute settlement and have refused to subscribe to ICSID membership.

The UN reviewed the subject of MNCs extensively through the work of a Group of Eminent Persons to study the role of multinational corporations in world development. I was fortunate to serve as one of the two U.S. participants in that group.

A UN Commission on Transnational Corporations, which developed out of the recommendations of the Group of Eminent Persons, is now attempting to draw up an appropriate Code of Conduct. Rather than drag its heels on this subject, the U.S. should put forward its own proposals and assume an active role in the discussion of a code of conduct, lest the final product be drafted by nations whose views differ so sharply from our own as to make the code ineffectual.

Ultimately, the most important determinant of private foreign investment in the developing countries will be the behavior of the developing countries themselves. It lies within their power to shut off the flow of foreign investment to their countries. In spite of the rhetoric, however, they have a rather clear idea of the benefits to be obtained from MNCs. Very few nations are willing to follow Cambodia's retreat into the dark ages of peasant agriculture.

It is not necessary that a deadlock develop over the issue of the MNC. However, both the U.S. and the developing countries must face the issue with more of a spirit of compromise than they have showed to date. For the United States, in particular, this will require a willingness in our country to deal with the abuses of U.S. multinationals abroad. Multinationals have demonstrated a great capacity for flexibility in adjusting to new investment conditions in developing countries, but such flexibility cannot be allowed to extend to corruption and interference in the affairs of the host country. If business cannot police itself, it cannot complain when governments step in.

This article is the sixth in a series of 13 condensed from those appearing in a report entitled, "Corporate Citizenship in the Global Community," © 1976, International Management and Development Institute, Washington, D.C. Next Wednesday: F. Perry Wilson, chairman of Union Carbide Corporation, tells how this firm tries to be responsive to changing needs of host countries.

RETIREMENT SECURITY FOR HOUSEWIVES

Mr. ROTH. Mr. President, last December I introduced legislation (S. 2732) to amend the tax laws to permit one spouse to establish and contribute to an individual retirement account for his or her spouse. This legislation would establish for the first time the opportunity to provide retirement security for the one large group of American workers still not covered by any pension protection—the American homemaker.

Individual retirement accounts are now available to the approximately 30 million workers not covered by qualified pension plans. Under the IRA law, working individuals can contribute, tax-free, 15 percent of earned income up to $1,500 a year. However, housewives, who do household work valued at between $5,000 and $15,000 a year, have no opportunity to set up retirement accounts for their own old age.

I believe there are many compelling

needs for the enactment of this legislation. Although more and more women are working, nearly 60 percent of married women are not in the work force and thus not eligible for retirement protection. The likelihood of being poor is considerably greater for elderly females than for males. According to the Senate Aging Committee's Task Force on Women and Social Security more than 2 out of 3 poor persons over the age of 65 are women.

Recent Census Bureau figures also show that women live almost 8 years longer than men—75.3 years for women compared to 67.6 years for men. For too many women, these extra years alone without a husband are spent in poverty. The social security laws also are inadequate for many homemakers. A 50-year-old widow, who is not disabled and has no dependent children, cannot even begin collecting social security benefits until she is 60. If she has been a homemaker all her life, and has no marketable work experience, her only alternative may be the welfare rolls.

In addition, this legislation would increase capital formation in the economy by encouraging personal savings. Increased personal savings would make more funds available for mortgages, consumer and business loans, and stimulate increased productivity in the economy.

This legislation, which is cosponsored by Senators MANSFIELD, HUMPHREY, METCALF, and MONTOYA, was first suggested to me by a Wilmington housewife, Mrs. William Ross, and has been very well received by a variety of women's groups and pension experts, and has received favorable editorial support.

I would like to submit for the RECORD an editorial from the Wilmington Evening Journal endorsing this proposal, an article from the Philadelphia Sunday Bulletin on Mrs. Ross, and testimony presented to the Senate Finance Committee by Mr. Thomas L. Little in support of my bill.

I ask unanimous consent that the material referred to be printed in the RECORD.

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

THEY ALSO WORK, AT HOME

A lot of lip service is paid to the importance of the role of the housewife but little is usually done to offer a tangible recognition to that importance. One major exception is the Social Security payment that comes at the end of a nonremunerative career of hard and long hours. Now Sen. William V. Roth, Jr., R-Del., is proposing that the recently instituted Individual Retirement Accounts (IRAs) be made available to full-time housewives.

That would be a revolutionary innovation. Under current regulations these accounts are, essentially, meant for people who are either self-employed or are employes without company pension or profit-sharing plans. They put away a certain amount of money in a tax-sheltered special IRA every year and do not pay any taxes on it until they retire, at which time their tax bracket would presumably be significantly lower as regular earnings drop.

If IRA eligibility is to be extended to housewives, many safeguards will need to be written into the law to ensure that the vagaries of death and divorce do not play havoc with the plans.

Eligibility, of course, does not mean that the 60 per cent of married women who Sen. Roth estimates are full-time housewives will all start IRAs. The money for these accounts has to come from the husband's earnings. In some cases they will not be able to afford it; in some other cases there will be no need for it. But, for those who do put away some money every year, there would be a pension, just as if they had worked for the government or a private company. It would be a worthwhile reminder that they also worked who only stayed at home.

WOMAN SEEKS PENSION PLAN FOR WIVES: "I FIGURE HOUSEWORK'S WORK, TOO"

(By Fabia Harris)

WILMINGTON, DEL.—Before her marriage, Sophie Ross, a housewife who lives in Ridgewood, worked for 15 years as a secretary for two companies.

When she left the second firm to get married in 1961, she received the small sum of money that she had contributed to the company's pension plan.

Mrs. Ross, 47, who is married to a chemical engineer at the DuPont Experimental Station, knows she will have enough to live on when she reaches her 60s, even though she did not work long enough to accumulate a good pension.

Her husband, William, 57, earns enough to save for their retirement and the DuPont Company provides numerous employe benefits, including a survivor's benefit.

OTHER HOUSEWIVES

But Mrs. Ross has spent her time lately thinking about other housewives; women who may have only a Social Security check on which to support themselves after their husbands die.

So Mrs. Ross proposed a pension plan for housewives. And U.S. Sen. William V. Roth Jr. (R-Del) picked up on her idea and introduced legislation providing for a housewives' pension plan last month.

It would amend the law establishing the Individual Retirement Account (IRA) program and provide tax incentives to encourage husbands to create retirement accounts for their wives.

"Doctors and lawyers can have a private pension fund, so why can't housewives?" said Mrs. Ross in an interview last week. "I figure housework's work, too."

STARVED TO DEATH

Mrs. Ross said she wrote to Roth after reading about a Florida woman who starved to death because she had only 50 cents a day to live on after paying her rent.

"I think that women should really try to save and look after themselves," said Mrs. Ross. "Women work for a while before they marry, then maybe after the children are grown, but that won't amount to a pension fund."

Under Roth's bill, a worker could set aside, on a tax-deferred basis, up to $1,500 a year for his or her spouse. Similar to an IRA plan, the money could then be withdrawn at retirement, when the worker and his spouse will likely be in a lower tax bracket.

Any worker who is self-employed or is employed by a firm that does not provide a pension plan may set aside money for retirement, under the IRA program.

VOTE BY JUNE

The Roth bill was referred to the Senate finance committee, which expects to vote on a tax reform bill by June, according to a Roth aide.

The aide said the bill "will recognize that the work of a housewife has economic value."

"Social Security is the only source of retirement security for the vast majority (of nonworking women)," Roth said recently. "For many, it is not adequate to provide a decent standard of living."

Roth said two out of three poverty-stricken individuals over the age of 65 are women.

According to a DuPont spokeswoman, company employes with at least 15 years of service receive a monthly survivor's benefit for their spouses. In addition, the Social Security program provides a benefit for surviving spouses, she said.

WILL SIGN UP

Mrs. Ross said she'll sign up for the housewives pension plan if it is approved by Congress, although "since I'm 47, it probably won't amount to much for me."

She said she disagrees with women's organizations which want housewives to be paid for their work.

"If you're paid for your housework, the government will tax your husband for it and by the time it gets back to you, it'll be half as much as your husband pays in taxes," she reasoned.

Mrs. Ross, who says she would "rather not be in the limelight," said she is amused by the publicity her idea has brought her.

"I just don't think the whole thing is that great," she said. "I just hope it goes through to help other women."

AMENDMENTS TO THE PENSION REFORM ACT OF 1974 THE TAX REFORM ACT OF 1975

(Statement prepared by Thomas L. Little, chairman, board of directors, and F. Jerome Shea, president, and Rufus S. Watts, technical vice-president, First National Retirement Systems, Inc., before the U.S. Senate Finance Committee)

REVIEW OF VOLUNTARY INDIVIDUAL PENSIONS

There has always existed a voluntary employee benefit plan for every working American commonly known as a Deferred Compensation Account. This completely voluntary plan is simply a common law contractual right by which an employer agrees to hold back an individual employee's future earned income until a future date. The employer then further agrees to maintain the ownership of the account until the employee meets certain conditions or events set forth within the contract. The deferred assets remain in the legal ownership of the employer until the employee meets certain conditions in the contract. At that time, the employee takes the assets of the account with the corresponding individual tax liability implied by constructive receipt of the assets. This deferred compensation process will reduce current employee tax liability until a future specified date.

This commonly used technique has been used for decades by highly paid executives, entrepreneurs, professional athletes, entertainers and other high earners as a way of deferring current income until a more convenient future time. This broad concept was first introduced to large groups of salaried workers in Delaware in 1970. Under this theory of deferred compensation, several rulings were requested from the Internal Revenue Service concerning the application to a medium range salaried employee earning approximately $10,000 per year. Repeatedly, the answers were positive and I submit to you a treatise regarding this process authored by both F. Jerome Shea and myself. This treatise details the basic construction of deferred compensation contracts that have been used for decades and is settled law.

VOLUNTARY TAX SHELTERED ACCOUNTS

The first major statutory breakthrough in the order of events of completely voluntary employee benefit plans occurred as an amendment to the Internal Revenue Code in 1954. The amendment provides for individual voluntary Tax Shelter Accounts. This law covered specifically employees of nonprofit

institutions which are charitable in nature and was later broadened to include public school teachers. These tax sheltered accounts have subsequently become well known throughout America as Tax Shelter Annuities in public school systems, private school systems, university and hospital systems. These particular tax sheltered accounts originally were limited for investments to a specific insurance product known as an annuity.

In the Pension Reform Act, Congress properly and wisely expanded these Tax Sheltered Accounts to include the use of Mutual Funds as an additional investment vehicle in addition to the insured annuity. However, the real significance of the Tax Sheltered Account is the completely voluntary nature of participation by an individual employee regarding the stabilization of future personal retirement plans. This voluntary salary reduction plan was the first broad based incentive plan for the salaried employee enabling him to voluntarily subsidize future personal retirement benefits.

The next major statutory effort to expand voluntary retirement benefits resulted from the passage of the KEOGH-SMATHERS Legislation in the early 60's. This Legislation is now commonly called HR10 and allows the entrepreneur, whether offering services or products, to voluntarily reduce present income (and include certain employees) under conditions set forth in the legislation. This remains an attractive and convenient method for the entrepreneur to voluntarily provide for his and his employees future retirement benefits.

INDIVIDUAL RETIREMENT ACCOUNTS

Congress then decided after long years of study and through an extensive statutory thrust to provide the American public with a completely voluntary personal retirement account known as the IRA or Individual Retirement Account. Individual Retirement Accounts provide the needed buffer zone between covered employees of industrial corporations and the great masses of employees not covered by company or union sponsored plans. Essentially the Individual Retirement Account provides an opportunity for each individual (with or without his employer) to voluntarily save or invest funds for future retirement not to exceed 15 percent of income or $1,500 per year. The Individual Retirement Account has been in effect for one year and seems to be relatively accepted by those who qualify and need a current tax deduction. However, without employer support through a payroll reduction, it is not likely the IRA will have broad base use throughout the economy by the personnel most in need of this benefit.

INDIVIDUAL PENSION ROLLOVER

Also included in the legislation is an opportunity for an individual pension rollover from a qualified plan into an Individual Retirement Account. This provision in the Pension Reform Act, although well intentioned, fell short of its goal and this current amendment attempts to correct the problem. However, this amendment will only correct the obvious inadequacy in the recent Pension Reform Act by allowing for a rollover from an existing plan without requiring that the employee leave his current job in order to meet the rollover requirements set forth in the Act.

It is therefore my purpose today to respectfully remind the committee that it is essential that this legislation recognize the rollover commonly takes two forms: one form is the lump sum provision; the other is a monthly (or periodic) actuarial rollover provision. The necessity for allowing an individual employee to option for the periodic rollover from a currently qualified plan can be explained by the following example:

An employee voluntarily or involuntarily leaves a corporation at age 51; and therefore, the company pension plan. Under the proposed amendment, he can rollover his lump sum vested assets to an Individual Retirement Account and therefore avoid undesirable tax liability. However, pension plans were designed to provide for periodic payouts and do not anticipate the lump sum payout. Qualified pension plans were certainly not designed to accommodate these lump sum payout provisions on a widely accepted basis; and as a result, they may be counter productive to the total pension reform concept. In turn, the individual employee may be losing a long term actuarial benefit by being forced to select only the lump sum option in lieu of the planned periodic payout. We suggest this amendment include a provision to merely allow an option for both lump sum rollover and periodic rollovers to the Individual Retirement Account. In either case, the tax consequence is the same and the long term benefit for both government and the public interest will be substantial by providing for both provisions.

We have generally reviewed the recent history of voluntary retirement plan from the common law deferred compensation contractual right to the highly specialized statutory plans created by Congress.

LIMITED EMPLOYEE RETIREMENT ACCOUNTS

Individual Retirement Accounts are now available to approximately 30 million employees who are not covered by company pension benefits. The proposed Limited Employee Retirement Account soon to be known as LERA will adjust the fair and equitable position of individuals who are now covered by qualified company pensions and therefore not entitled to participate in the Individual Retirement Account. This amendment will remedy a basic unfairness inadvertently caused by the Pension Reform Act by allowing further expansion of the voluntary plan concept. We fully support this effort.

SUMMARY

It becomes glaringly obvious that the voluntary plan is the only realistic approach to reducing current economic tension on government and corporate pension plans including the Social Security System. In that spirit, let me respectfully alert the Committee that there is one significant portion of the workforce not yet considered for a voluntary pension plan. These workers choose a career objective that is the backbone of American society.

If the accumulated numbers of these specialists were expressed as a single unit, it would certainly dwarf all employment categories yet recorded. These workers are fundamentally general practitioners in their trade; however, they must by the very nature of their job develop specific skills in the following areas:

Basic Accounting.
Nursing and First Aid.
Care, Cleaning and Maintenance of Children.
Pre-school Education.
Primary and Secondary Education.
Budgetary management and Control.
Consumer Advocacy and Investigative Procedures.
Real and Personal Property Management.
Culinary Arts.
Fashion Design and Interior Decoration.
Landscaping.
General Home Repair and Maintenance.
Psychological and Physical Therapeutic Techniques.
Judicial Review of Minor Disputes, and
Other skills just too numerous to mention.

Of course, all of this expertise is taken for granted in the overall scheme of our free enterprise system and to make matters even more ludicrous . . . these workers have no employer from whom to draw a pay check . . . nor a pension plan.

I am speaking, of course, of our American Homemakers who also double as our wives and mothers. She is entrusted with the motivation and morale of literally millions of governmental officials, service industry professionals and manufacturers of goods throughout our land. Other adult Americans have some source of employment income or at least some type of government subsidy. These critically important specialists, who are the backbone of the family unit and the economy, have no identifiable source of personal income unless it is in the form of a gratuitous transfer.

This is not only downright injust—it's just downright impractical!

The real compensable worth of a homemaker has been estimated by economists and financial planning experts to range between 5 thousand to 15 thousand dollars per year. No matter what the figure, no one of us would seriously suggest that it would be adequate. Yet in spite of our common agreement, no serious proposal for compensation has yet come forth from government or the private sector.

Therefore, as a mere start and as an effective compromise, we strongly suggest that the committee consider passage of Senator William V. Roth's amendment to the Tax Reform Act of 1975. His amendment provides for a completely voluntary tax deferred retirement account for the Homemakers of America. We would not be so presumptuous as to suggest the actual amount to be considered by the committee . . . that is for wiser men than us to determine considering the overall economic scheme of things. It is, however, essential that the committee consider this amendment at this time in light of your sincere effort to round out the whole voluntary pension system. This rounding out process should make provisions for all Homemakers now totally dependent on the one income source earned by their spouse.

Let's face the facts, when the sole income earner is disabled or dies, the surviving homemaker is fully expected to immediately take over the breadwinner role. This occurs under extremely trying circumstances and at best during a period of extreme emotional stress when she is usually unfamiliar or unskilled for participation in the economic world outside the home.

We believe the same equitable principles that motivated the Congress to grant voluntary plans to all earned income categories in the workforce will compel the addition of this amendment resulting in the Homemaker's personal retirement account.

THE NEED FOR NATIONAL HEALTH INSURANCE

Mr. ABOUREZK. Mr. President, two articles dated March 29, 1976, have a common lesson—Congress should act on national health insurance.

In the "My Turn" column in Newsweek magazine, Robert K. Massie reminds the voters and those of us elected by them that national health insurance remains one of the great unfilled promises of recent elections.

As a cosponsor of S. 3, the health security bill, I endorse what Mr. Massie says about both the facts and the politics of health care in this country. He points out one of the deficiencies of the present system when he says:

Private insurance companies pick and choose among various risks, trying to avoid the bad ones.

The other article is about one of the "Bad risks." Sally Farrar of the Rapid City., S.D., Journal has written a hopeful

but disturbing account of the attempt of one teenage girl to obtain treatment for a rare and often fatal disease. After 5 months of frustrations and rejections, she was finally able to find the prohibitively-expensive diagnostic tests she needed at St. Jude's Hospital, Memphis, Tenn.

While the Journal piece is a tribute to the excellent work done at St. Jude's, the motivated staff and sophisticated facilities there, it is also a sad commentary on the present health care system in the Nation, when a middle-class family is unable to afford, or even find, treatment for a teenage daughter.

The girl's illness had been fatal to four successive generations, including her father. Her mother works full time to support the four children. They did not qualify for any Government health program, and would have had to sell their home to afford even 1 week of tests the girl needed.

The persistence and courage of the Rapid City girl and her family are no substitute for a system of comprehensive national health insurance which could help them. Mr. Massie states the issue succinctly:

The problem, basically, is to get a substantially better distribution of the miracles of modern medicine to ensure that people get the care they need, not the care they can afford. The solution is strictly political.

So, let us get on with it. There are questions, major and minor, to be resolved by the Congress in developing a program of national health insurance. It is individuals like the girl in Rapid City who give substance to the thoughtful essay of Robert Massie. Together they are a powerful argument for comprehensive national health insurance.

Mr. President, I ask unanimous consent that the two articles I have mentioned be printed in the RECORD.

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

THE POLITICIANS VS. OUR HEALTH

(By Robert K. Massie)

The politicians are at it again, roaming the land, pleading, persuading, promising. And again, I've been listening for anything they say about the issue I care about most: national health insurance. Predictably, most of the Democrats say they are for it, and some Republicans are against it. But it isn't that simple. They all keep shifting their positions. Or their priorities. Or their excuses. And we let them get away with it.

Look at the record of the last year and a half. Eighteen months ago, it seemed that Congress was actually about to pass a national-health-insurance bill. The new man in the White House was for it. In his first address to Congress as President, Gerald Ford asked for only one specific piece of legislation. "Why don't we write," the President said, "and I ask this with the greatest spirit of cooperation—why don't we write a good health bill on the statute books in 1974 before Congress adjourns?" Today, although the economy is booming compared with its state when he made his plea, Ford now sternly tells us that "we cannot afford national health insurance."

What has Congress done? Dozens of Democrats campaigned for national health insurance in the November 1974 elections and most of them got elected. Speaker Carl Albert opened the new 94th Congress in January 1975 promising that "national health insurance will be one of the first bills—if not *the* first bill—to be taken up." Congressman Al Ullman, chairman of the Ways and Means Committee, personally submitted his own national-health-insurance bill as H.R. 1, the first piece of legislation to be considered by the House.

THE COST OF CATASTROPHE

Since then, nothing has happened. Yet the fact is that more than two-thirds of the American people have favored national health insurance ever since Harry Truman first proposed it in 1948. Over the years, we have made progress. We have medicare for old people and Medicaid for poor people. But most of us, the long-suffering middle class, the Silent Majority if you will, still have inadequate, patchwork coverage. When we are suddenly hit by a catastrophe or long-term illness, we quietly go down the drain, financially as well as medically. Why can't we have what we need and want?

One argument used against national health insurance is cost. In fiscal year 1975, American expenditures for health care reached $118.5 billion, a figure that is 8.3 per cent of the gross national product. Remember, this astronomical sum is what we pay now, *without* national health insurance. Opponents of the plan say that national health insurance inevitably will mean higher health-care costs for the individual citizen. But why should that be? Dollars paid in premiums to a national-health-insurance program will cancel out the dollars we now pay in medical bills and in private and semiprivate health-insurance premiums. And for our money, we should have better distributed and more inclusive health-care services. For all of us.

HEALING OURSELVES

Wait, opponents argue. What about the scandals and ripoffs in medicare and Medicaid? It's true, there are dishonest doctors, dishonest hospitals and nursing homes and dishonest patients. But their crimes are small potatoes compared with the enormous good these programs have done for millions of Americans. Furthermore, for me, the claim that there have been abuses in the past is a poor argument against something new we need; it is an excellent argument for running the new plan effectively. We don't close down the Defense Department because defense contractors have overrun costs or offered bribes. We need to be defended and President Ford's "realistic" budget asks for an additional $10 billion for the department this year. We also need to be healthy. Therefore, let's create a national-health-insurance plan that is well administered and that has heavy penalties for anyone who abuses it.

Finally, the oldest argument against national health insurance is that it will bring us "socialized medicine" and get us into the mess in which Britain now finds itself. First, we should understand that despite the current troubles of Britain's National Health Service, the system has been of incalculable value to the British people for 30 years. No government, Labor or Conservative, would dream of trying to take it way. Second, no one is proposing for America a system like England's in which the doctors do work for the government. Instead, what is asked for here is simply a government insurance system. Under such a plan, doctors would work for themselves, we would choose the one we like, pay his bill and then submit a reimbursement claim, just as millions of us now do with our private and semiprivate insurance plans.

The difference would be that everybody would be covered. In America today, private insurance companies pick and choose among various risks, trying to avoid the bad ones. Group major-medical plans have maximum coverage ceilings that may be too low to cover the expenses of catastrophic illness. Sometimes, insurance companies put pressure on employers not to hire people who are handicapped or chronically ill. Self-employed people have to struggle to get good medical insurance. Indeed, more than 50 million Americans, one-quarter of the population now have no health insurance at all, not even basic hospital insurance. What happens to them when they become seriously ill?

WE'RE NOT KIDDING

The problem, basically, is to get a substantially better distribution of the miracles of modern medicine and to ensure that people get the care they need, not the care they can afford. The solution is strictly political. We have only to inform 536 people in Washington that national health insurance is very important to us and that this time we're not kidding. We have to remember that health insurance is not personally very important to them. All these men and women—435 congresspersons, 100 senators, and one President—have White House and Congressional doctors paid for by the taxpayers. In addition, they, like all Federal employees, are covered by a superb major-medical plan that insures them and their families for up to $250,000 in costs. They enjoy the coverage we lack.

So we have to make it a question of their political health. If we make it plain to them that unless they pass a national-health-insurance bill before November, many of them will be going home for good, they will become surprisingly sprightly and productive.

Let's lean on them.

CITY FAMILY FINDS ST. JUDE'S A BASTION OF HOPE FOR ILL YOUTH

(By Sally Farrar)

To many persons St. Jude's Hospital is just a charity associated with comedian Danny Thomas.

To a Rapid City family it is a bastion of hope for young people suffering from catastrophic illnesses.

Having discovered the services of St. Jude's in Memphis, Tenn., only after exhausting and frustrating searches for assistance, they want to share the news, while remaining anonymous.

On arriving, they found that in the decade and a half St. Jude's Research Hospital for Children has been operating, only one other South Dakotan had been admitted—in 1975, from Sioux Falls.

But then, they almost didn't get there.

Last fall it was determined that a teenage daughter was suffering from an inherited disease which can be terminal. The situation was serious and a search was begun for assistance.

An approach was made to the state crippled children's section, but it was learned that applications had been cut off as of Oct. 20. This family's application would have been dated Oct. 23.

The family was told it might reapply after July 1 when new funding might become available.

It was suggested that the Shriners might be of assistance. Officials of the Rapid City Shrine Club were willing and interested in helping, but the child was too old to quality for the Shrine-supported institutions.

The mother was told that the Shriners feel they are not used as often as might be possible; that they do not require proof of financial ability before helping and that they (the Shriners) feel that if more individuals were to seek their aid, there might be more funds available for crippled children as a result to help the older child.

At this point, she said, "Where do you turn?"

It appeared there was nothing which could be done until a new government fiscal year and perhaps additional funding became available.

Another member of the family mentioned the situation to a friend who told a college professor about it. The professor made a trip to Washington, D.C., and happened to mention the incident to Sen. James Abourezk who, coincidentally, happened to be a friend of the family.

His office called, got the information and went to work.

Contacts were made with the National Institute of Health. "They were interested," the mother told the Journal, "but no one was doing research in this particular disease. It is rare."

Then contact was made with St. Jude's and the family and the problem were welcomed with great enthusiasm. Two men were doing research into the disease which has been described as a genetic timebomb."

And, this particular family was to present the researchers with their first case beyond one generation—in this family the illness has been fatal in four successive generations. One of the doctors affiliated with St. Jude's had treated three cases and the local family could document two others which had been treated—all unsuccessfully.

No one knows of the contribution to life saving in the future which this link may provide. But the Rapid Citians want others to know of the availability of the services of St. Jude's to families of children who are suffering from catastrophic—incurable disease.

All expenses, with the exception of meals, were paid by the hospital. They prefer that a family make a donation—which would be tax exempt—and that they allow the hospital to pay for all of the other services, lodging and travel, even if the family is able to meet some of the resources. This safeguards the hospital against any charges of preferential treatment.

"These illnesses are a great leveler," the mother reported. The cycle of routine testing, which could have gone on over five days, was reported to cost between $40,000 and $50,000. And this doesn't take into account the toll on the family in terms of nervous exhaustion and worry as they await test results.

The atmosphere is created entirely for the ease of the patients—toddlers to teen-agers. Outpatient care is prescribed in every possible case. The Rapid Citians found there were 800 outpatients and only 200 hospital patients when they were there.

Where possible contamination is a problem, child and parents or family are separated by glass partitions. "The microphone is on the child's side. They can tune out their parents," Rapid City's patient reported.

She also was a bit bewildered at times. "Everything was discussed in metric terms . . . I didn't always know what was going on."

But the best thing, mother and daughter agreed, is that St. Jude's "is giving hope for the future in genetically linked diseases . . . the scope is so limited for research.

"Anyone can apply through his family doctor," they said.

PETER LISAGOR—CHICAGO DAILY NEWS WHITE HOUSE JOURNALIST

Mr. PERCY. Mr. President, one of the products that the State of Illinois has produced most successfully over the years is an exceptionally talented strain of journalists and writers. That thought came to mind again this week with the announcement that Peter Lisagor has won the William Allen White Foundation's 1976 award for journalistic merit.

I think everyone in this Chamber knows Pete Lisagor and practically all of us have been burned by his wit and warmed by his personality during the 17 years that he has been chief of the aggressive Chicago Daily News bureau here.

In making this 28th annual award, the foundation singled out Lisagor as a journalist who exemplified the image of the late William Allen White—

A talented writer and observer, a well-read man whose literate instincts are mixed freely with the practicalities of Washington and national life.

This is not the first time Pete has been honored. He is currently president of the Gridiron Club. In 1974 he won the George Foster Peabody Broadcasting Award as well as the Marshall Field Award, the highest honor bestowed by his own newspaper. The wording of the Marshall Field award, in something of an understatement, cited Lisagor for "superb reporting in a very special year for Washington news coverage."

In 1970 Time magazine took an informal poll and concluded that Pete was considered by his colleagues in the news profession to be the best all-around correspondent in Washington. Time said:

Pete had made his mark by 20 years of hard work and humor. If he has scooped every competitor and pulled every beard in the capital, he remains the most popular newsman in town.

I think those tributes to Pete are accurate enough, as far as they go. I would like to add a special tribute to the way he has overcome one handicap that frustrates many newsmen who work in cities far removed from their home base. Pete has become a highly respected presence in this capital despite the fact that too few of the people he writes about regularly read his newspaper, the Chicago Daily News, or its wire service.

He has achieved this, I think, through the force of his own personality: His enthusiasm and candor, and his fast eye for any sign of official deception or pomposity. And perhaps most lasting, his unfailing willingness to welcome a newcomer or to help a beginner establish a footing on the first rungs of the journalistic ladder.

Mr. President, I suspect that this selection of Peter Lisagor is one that Mr. William Allen White himself would have approved.

THE MILITARY VALUE OF THE PANAMA CANAL

Mr. McGEE. Mr. President, the issue of the Panama Canal Treaty negotiations has become somewhat of a point of contention during this election year.

Some candidates insist on perpetuating myths of the past and distortions of what our true interests might be in the canal today and how these interests can best be protected.

Therefore, I recommend all candidates in both parties, who are running for national office, read the March 25 edition of Department of Defense. Commanders Digest is a publication which provides "official and professional information to commanders and key personnel on matters related to Defense policies, programs and interests, and to create better understanding and teamwork within the Department of Defense."

The March 25 issue of Commanders Digest is devoted to a discussion of "The Military Value of the Panama Canal."

Here is what the Defense Department publication has to say about some of the issues associated with the Panama Canal Treaty negotiations.

On the economic value of the canal:

The importance of the canal to the economies of the United States and other nations, as well as to that of Panama has decreased from earlier years as trading patterns have shifted and world commerce has become more sophisticated. Alternatives to the canal have begun to emerge, including the use of larger vessels which are unable to use the canal. Moreover, the shifting of markets and supply sources has also affected the economic importance of the canal, as has the partial substitution of land and air transport for ocean transport. As canal users in search of lower transportation costs take increasing advantage of these alternatives, the canal's value to user nations undoubtedly will continue to decline.

On the question of sovereignty and perpetuity:

It is necessary to distinguish between treaty rights, which allow the use and control by one nation over a piece of foreign territory, and actual sovereignty—supreme and independent power of authority—over that territory. From a legal standpoint the United States does not have sovereignty over the Canal Zone. Rather, by treaty right, we exercise virtually complete jurisdiction over that part of the Panamanian territory which comprises the Canal Zone.

Today, reliance on the exercise—in perpetuity—of sovereign-like rights has become a source of unnecessary tension. Clearly, no international relationship negotiated more than 70 years ago can be expected to last forever without substantial adjustment. To adhere to the concept of perpetuity in today's rapidly evolving world is not only unrealistic, but dangerous. Indeed, a relationship which does not provide for the possibility of periodic mutual revision and adjustment is likely to spawn the kind of hostile environment which will jeopardize the very interest that perpetuity was designed to protect. In sum, a new treaty based on partnership would give the United States the rights we need, restore the crucial ingredient of Panamanian consent, and strengthen our mutual interest in a well-run and secure canal.

Mr. President, the Department of Defense has always had the reputation of cautious and detailed analysis of the Nation's strategic interests. It is for this reason that serious consideration should be given to the Department's position, as outlined in the March 25 issue of Commanders Digest. It is a thoughtful and pragmatic explanation of what the national interest of the United States is in negotiation of a modern treaty relationship with the Government of the Republic of Panama for the operation of the Panama Canal.

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

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

U.S., PANAMA TALKS ON CANAL HOLD PROMISE

Immediately after its formation as a nation in 1903, Panama signed a treaty with the United States which granted the United States—in perpetuity—the use of a 10-mile

wide strip of Panamanian territory for the "construction, maintenance, operation, and protection" of an interoceanic canal as well as all the rights, power, and authority which the United States would possess "if it were the sovereign." The very favorable terms of the treaty were a major factor in the decision by the United States to build the canal in Panama rather than in Nicaragua, which was widely favored at the time.

Despite some revisions in 1936 and 1955, the 1903 treaty has been and remains a source of friction and conflict between the United States and Panama. The seriousness of the situation led the United States and Panama in 1964 to agree to begin negotiations on a new treaty. In entering these negotiations, the United States acknowledged that a renewal of its relationship with Panama corresponded not only to the long-term U.S. national interests but to a changing international environment.

ECONOMIC AND MILITARY VALUE OF THE CANAL

Since its opening in 1914 the canal has been of considerable value to the United States, to Panama, and to the rest of the world. Of the total tonnage transiting the canal each year, about 44 percent originates from, and 22 percent is destined for, U.S. ports. Approximately 16 percent of total U.S. exports and imports by tonnage, and 8 percent by value, pass through the Panama Canal.

Currently more than 30 percent of Panama's foreign exchange earnings and nearly 13 percent of its GNP are directly or indirectly attributed to the presence of the canal. The share of Panama's GNP directly or indirectly attributable to canal operations, however, has shrunk over the years as other sectors of the economy have expanded.

In fact, the importance of the canal to the economies of the United States and other nations, as well as to that of Panama has decreased from earlier years as trading patterns have shifted and world commerce has become more sophisticated. Alternatives to the canal have begun to emerge, including the use of larger vessels which are unable to use the canal. Moreover, the shifting of markets and supply sources has also affected the economic importance of the canal, as has the partial substitution of land and air transport for ocean transport. As canal users in search of lower transportation costs take increasing advantage of these alternatives, the canal's value to user nations undoubtedly will continue to decline.

Historically, the canal has made an important military contribution to our country's security. It remains an important defense asset, the use of which enhances U.S. capability for timely reinforcement and resupply of U.S. forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans to overseas areas.

U.S. TREATY OBJECTIVES

For the foreseeable future the canal will continue to have economic and military value for the United States; therefore, we believe it must continue to function efficiently. The principal objective of the United States in the current treaty negotiations is to assure that the Panama Canal is operational, secure, efficient, and open on a non-discriminatory basis to world shipping.

In accord with this basic U.S. interest, the U.S. Government is seeking to establish a new and mutually acceptable treaty based on the concept of partnership. Under this new relationship, the United States would have the essential rights to operate and defend the canal for a reasonably extended period of time. In addition we are seeking a guarantee that the canal will remain neutral and open on a nondiscriminatory basis after termination of the treaty. In essence, a new treaty should reduce existing sources of friction and help foster the cooperative environment in Panama which is most conducive to protecting U.S. interests in the canal. Furthermore, this accord would signify a new era of cooperation between the United States and the rest of the hemisphere.

PANAMA'S TREATY CONCERNS

Panama has been dissatisfied with the existing treaty since its inception in 1903. Panamanians have blamed what they consider to be its highly unfavorable terms on the unusual circumstances under which the treaty was negotiated and ratified. They say that Panama's dependence upon the United States to protect its new-found independence from Colombia seriously limited its bargaining strength in the negotiations. Adding to their complaints, they note that the Panamanian negotiator was a French stockholder in the bankrupt French canal company—a company which benefited considerably when the United States purchased its assets.

Through the years Panama also has been dissatisfied with the level of direct economic benefits it receives from the canal. It has charged that in relation to the valuable rights and privileges granted to the United States, its share of canal revenue is inadequate.

Panamanian discontent, however, is primarily political. It is focused on the treaty's terms which granted to the United States "in perpetuity" sweeping jurisdictional powers as "if it were the sovereign," over 550 square miles of Panamanian territory. The problem Panama asserts, is that the United States operates a full-fledged foreign government on Panamanian territory. To back up its contention Panama states that the United States exercises almost total jurisdictional rights, maintaining a police force, courts, and jails to enforce U.S. laws which are applicable equally to Panamanian as well as U.S. citizens in the Canal Zone. The United States controls all legal activity from murder trials to marriage and divorce actions. In addition Panama charges that the U.S. Government operates virtually all commercial enterprises within the Canal Zone, thereby unfairly denying Panamanians the ability to compete for business opportunities. Moreover, they state that the United States controls all the deep-water port facilities which serve Panama and holds large land and water areas which could productively benefit Panama's economy. Panama also claims that the Canal Zone, which cuts across its heartland, has seriously curbed the growth of its urban areas. Finally, Panama notes that we pay but $2.3 million annually for these immensely valuable rights—rights which, under the existing treaty, the United States can continue to have forever.

Over the years the United States has attempted to respond to some of Panama's most pressing concerns. The 1903 treaty was revised in 1936 and again in 1955. As a result Panama now receives a greater share of the economic benefits related to the canal. Also, certain outdated powers have been eliminated, such as our right to interfere in Panama's internal affairs.

Despite these modifications, however, the most objectionable feature in the present treaty, from Panama's viewpoint—the U.S. exercise of rights over the Canal Zone as if it were sovereign forever—has remained unchanged.

In recent years the other Latin American nations have strongly supported Panama's quest for a more modern treaty. They have made the negotiation of a new treaty a major hemispheric issue as well as a general test of U.S. intentions regarding all of Latin America.

THE QUESTION OF SOVEREIGNTY AND PERPETUITY

A major issue raised by many U.S. citizens who are opposed to the present negotiations with Panama concerns the question of U.S. sovereignty over the Canal Zone. It is necessary to distinguish between treaty rights, which allow the use and control by one nation over a piece of foreign territory, and actual sovereignty—supreme and independent power or authority—over that territory. From a legal standpoint the United States does not have sovereignty over the Canal Zone. Rather, by treaty right, we exercise virtually complete jurisdiction over that part of the Panamanian territory which comprises the Canal Zone.

Judging the need for a new treaty, however, depends less on the nature of our legal position in the Canal Zone than on considering the best way to assure the continued protection of our fundamental interest in the canal. More specifically, we must weigh the cost of perpetuating the exercise of total U.S. jurisdiction over the Canal Zone. Will this allow the United States to continue to provide the degree of protection for the canal which we seek?

We have to keep constantly in mind that our fundamental interest in the canal is to keep it open, safe, efficient, and neutral. How do we best do that? The exercise of general jurisdiction over the Canal Zone has not been an end in itself, but merely a tool to protect that fundamental interest. At the present, our ability to protect our interests through the exercise of this extensive grant of jurisdictional authority is in serious doubt. This is why we believe that a new treaty relationship—based on the concept of partnership and similar to other agreements with our allies throughout the world—offers a tool that will better protect our basic interests.

Today, reliance on the exercise—in perpetuity—of sovereign-like rights has become a source of unnecessary tension. Clearly, no international relationship negotiated more than 70 years ago can be expected to last forever without substantial adjustment. To adhere to the concept of perpetuity in today's rapidly evolving world is not only unrealistic but dangerous. Indeed, a relationship which does not provide for the possibility of periodic mutual revision and adjustment is likely to spawn the kind of hostile environment which will jeopardize the very interest that perpetuity was designed to protect. In sum, a new treaty based on partnership would give the United States the rights we need, restore the crucial ingredient of Panamanian consent, and strengthen our mutual interest in a well-run and secure canal.

CHRONOLOGY OF NEGOTIATIONS

Today, the canal is the major political issue in Panama and in Panamanian-U.S. bilateral relations. The intensification of Panama's desire for more equitable treaty terms has produced severe stress in our relations; this was most notable in January 1964 when riots led to the deaths of 20 Panamanians and 4 Americans.

During 1964 the status of the canal was debated in the United Nations, the Organization of American States, and other international bodies. Later that year President Johnson, after consulting with Presidents Truman and Eisenhower, and with bipartisan support, made a public commitment to negotiate a wholly new, fixed-term canal treaty. President Nixon and President Ford have subsequently reaffirmed that commitment.

In 1967 three draft agreements were prepared but neither government moved to ratify them. Later the Government of Panama, under General Omar Torrijos, formally rejected these draft treaties. The United States and Panama renewed negotiations in 1971 but progress was limited.

In March 1973 the U.N. Security Council met in Panama City and debated a resolution which supported Panama's position on the canal issue. Although the U.S. Perma-

nent Representative to the U.N. vetoed the particular terms of the resolution on the grounds that it recognized Panama's concerns but not those of the United States, he did reaffirm the U.S. commitment to peaceful adjustment of its differences with Panama. In September 1973 Ambassador at Large Ellsworth Bunker was charged with the task of resuming negotiations with Panama. During succeeding months, Ambassador Bunker met with Panamanian officials to work out a common approach to future treaty negotiations.

On February 7, 1974, Secretary of State Kissinger and Panamanian Foreign Minister Juan Antonio Tack met in Panama City and signed a Joint Statement of Principles which has served as the framework for the present negotiations.

The representatives of the two governments subsequently met several times in Panama and Washington to define the issues involved in the new treaty arrangement. In June 1974 Ambassador Bunker and Foreign Minister Tack began substantive talks aimed at resolving these issues.

ISSUES IN THE NEGOTIATIONS

The United States and Panama have agreed in principle that the treaty of 1903 should be replaced by a new, fixed-term treaty which will accommodate Panama's concerns about sovereignty and at the same time adequately protect the interests of the United States in a safe, efficient, and neutral canal open to the ships of all nations. In the context of the Joint Statement of Principles the two negotiating parties are working to resolve the following issues:

1. Duration. How long will the new treaty remain in force?

2. Operation and Defense. What rights and arrangements are necessary for the United States to continue to operate, maintain, and defend the canal effectively?

3. Lands and Waters. What geographic areas will the United States require to accomplish its purpose?

4. Jurisdiction. How soon and under what arrangements will U.S. jurisdiction terminate? What functions will continue to be performed by the United States after its jurisdiction has terminated?

5. Expansion of Capacity. How will the new treaty provide for possible enlargement of the canal?

6. Participation. How will Panama participate in the administration and defense of the canal?

7. Compensation. What will be the economic form and level of benefits to Panama under the new treaty?

CURRENT STATUS

Since June 1974 both governments have been proceeding deliberately toward resolution of the major issues. Tenative agreement in principle has been reached on the issues of Panamanian participation in the operation and defense of the canal; and in general terms, we agree on the rights the United States will need to operate and defend the canal. Nevertheless, the difficult issues of treaty duration, expansion rights, economic benefits to Panama, and definition of lands and waters required for canal operation and defense remain unresolved. For these reasons it is not possible to predict when a draft treaty will be completed.

The executive branch has been in continuous consultation with Congress regarding a new canal treaty. Any draft treaty agreed upon by the negotiators and approved by the executive branch will be submitted to the Senate for advice and consent as required by the Constitution, and will be subject to full public debate. Panama, according to its constitution, must submit any new treaty to a plebiscite to insure that it is acceptable to the Panamanian people. Either party may initially undertake the ratification process.

In summary, the mutual goal of Panama and the United States is to negotiate a treaty which will satisfy the basic concerns of both nations, gain the appropriate constitutional acceptance in both nations, and evoke the full support of both the American and Panamanian people.

PROSPERITY THROUGH FREEDOM

Mr. GRIFFIN. Mr. President, on April 2, U.S. Representative JACK KEMP, of New York, spoke to the Commonwealth Club of California on the subject of economic policy. I ask that Congressman KEMP's remarks, entitled "Prosperity Through Freedom," be printed in the RECORD.

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

PROSPERITY THROUGH FREEDOM

(By Representative JACK KEMP)

In this year of our Bicentennial we, as a nation, face the question of whether we are going to maintain the confidence in the individual that gave us our free economic system, or whether we are going to adopt the path we rejected two centuries ago and firmly subordinate the individual to the state.

Are we going to promote the individual, or are we going to promote Government? That is the issue, and our freedom is at stake.

In making this decision we must pay attention to history which records that the way of freedom is the best way. It is no secret that it is the political liberties and the standard of living of the free nations of Europe and America to which the world aspires.

If we are to stay on the path upon which we set in 1776, if we are to continue to lead the aspirations of the world, we must take steps now to remove the individual from the choking tentacles of government. We must rely on the free market system which lets the individual decide his own priorities, which lets the individual have the dignity and enjoy the personal success of improving his own position, of making his own place in the world and which has led to the unprecedented prosperity which we enjoy today.

What follows from this is that Government, which impedes the individual and impairs his progress, which impedes markets and impairs their effectiveness, must be controlled before it ends up controlling us all.

If we are going to promote the individual, we must restrict government. If, on the other hand, we are going to continue to promote an all powerful government as the solution to our current and future problems, we will have to continue to restrict the individual, and continue to remove his say about how he conducts his business and lives his life. As Jefferson observed 200 years ago, "as government grows liberty recedes."

It is jobs that are the vehicle for allowing us to care for ourselves. It is productive jobs in the private sector of the economy that allow individuals to build lives for themselves. It is only natural that people denied employment opportunities will turn to the state. But promotion of government solutions to job opportunities guarantees that it will be harder for individuals to build lives for themselves, and ultimately makes more and more people dependent on the state.

Free lives, individual lives, productive lives are built on capital investment, not on the red ink and the printing press of the government. If we are going to promote the individual, we must add more capital—expanded plant and machinery, new and better tools—to the productive sector of our economy, to the market sector of our economy.

Some people say that the market can no longer do the job, that we must rely more and more on government. But there is no evidence anywhere of government's capacity to do the job. On the other hand, the present economic recovery demonstrates the enormous capacity of the private sector to absorb and overcome blow after blow, punishment after punishment from the government. The market economy is a viable, resilient system, but it has had to absorb punishment from the government for long enough.

The American economy has been on the wrong road for too long. The wrong road is the road of inflationary stimulation of consumption, and it has been at the expense of the investment capital which raises the productivity base and generates new jobs and non-inflationary wage increases—real wage increases which do not disappear in higher prices.

The Congress has eagerly travelled the road named "Spend Our Way to Prosperity." From 1971 when I came to Congress to the budget we are now considering, federal budget outlays have about doubled. The budget deficits accompanying this tremendous increase in federal spending have generated an additional red ink sum of 31 million dollars greater than the entire federal budget in 1971. Not only did spending nearly double but so did unemployment. More government was not the answer.

Federal budget outlays for 1971–1977 total about 2 trillion, 200 billion dollars. A Congress that uses a quarter of a trillion dollars in red ink to increase its speed down the "Spending Road to Prosperity" to cover a distance of 2 trillion, 200 billion dollars in such a short time cannot be said hesitant to travel the road. Yet we hear the Congressional Budget Office and liberal economists and politicians speaking of too much fiscal restraint. However, the road is misnamed. It is not the "Road to Prosperity." It is the "Road to Ruin." A quarter of a billion in budget deficits has not produced prosperity but the worst inflation in 3 decades, the worst unemployment in 4 decades, and the worst combination of inflation and unemployment in our history.

Since we have been on this road we have seen total government spending increase from 12 percent to 43 percent of the national income. One American out of five is employed by government. We do not need to go further along this road ourselves to know that it is "The Road to Ruin." In Britain where government spending has reached 60 percent of the national income, even the socialist leaders of the British Labor Party can find nothing but economic decline. There they are speaking of the need to change course, the need for more private investment. But it is hard to change the course of a sinking ship. In Britain today the capital stock is not large enough to employ the labor force in productive jobs that can pay their own way.

As our own government has preempted the use of more and more of our economy's resources, what have been the observable results? In our 198th year the economy was experiencing double-digit inflation. In our 199th year the Keynesian economists consulted their Phillips curve and said that in the absence of rigorous wage and price controls—in the absence of a Government policy controlling the incomes of individuals—inflation cannot be reduced because it would lead to increasing unemployment. Now at our 200th year the liberals are calling for more government, bigger deficits and central economic planning. Britain has travelled this whole road—big government spending, big inflation, wage and price controls, incomes policy, nationalization, central planning, and no one in Britain is calling it the road to prosperity.

It does not require a Ph. D. in economics to understand why government spending is the road to ruin. The reason is clear. Resources used by government cannot simultaneously be used by the private sector. Resources used in consumption today cannot

simultaneously be invested in expanded plant and machinery to employ more people tomorrow in the production of more goods and services.

Government spending has to be paid for in real terms just like anything else. To have more of it, we must have less of something else. What we have had less of is saving and investment. Whether it is tax and spend, borrow and spend, or inflate and spend, government spending consumes capital at the expense of the nation's economic potential and the working man and woman's living standard.

As Milton Friedman and experience have both demonstrated, it is not possible to maintain full employment at the cost of a fixed rate of inflation. Therefore, even those policy advocates who were prepared to pay for employment with inflation do not have that option. Red ink cannot put people to work and keep them employed. Only investment capital can do that.

That capital investment is the basis for prosperity is as true in socialist and communist states as it is in free economies. Many such socialist and communist states are much more aware of the importance of capital than capitalist United States. The Soviet Union, for example, does not rely on red ink but on rates of investment that average 25 to 30 percent of gross national product, compared to an average rate of investment in the U.S. during the 1970s of merely 15 percent of GNP and during the last two years less than that. In the absence of a private capital market, the Soviets do not have a mechanism to make their investment pay off—and that is why we have to feed them—but they realize the importance of investment, especially in military terms.

Consider this, in socialist Sweden, which does have private capital markets, the statutory tax rate on corporate income is 50 percent. But in order to encourage the investment that produces the real goods and services which make up the high living standard of the Swedish people, the Swedish government provides tax breaks to private industry that reduce the effective tax rate on corporate income far below the American rate.

Whereas the U.S. Internal Revenue Service collects about one dollar from corporations for every three it collects from individuals, in Sweden the ratio is more like one dollar in corporate income tax for every 10 dollars in personal income tax.

In Sweden companies can write off new machinery in five years, capital gains taxes are lower, and 40 percent of a company's profits can be put into a tax-free reserve for investment during recession.

Notice: in Sweden investment incentives, which in the U.S. are called "tax loopholes for the benefit of the rich," are seen as proper food to feed the capitalist goose that lays the golden eggs of the Swedish welfare state.

Notice: 40 percent of Swedish profits are *tax free* if used for investment during recession. For investment during recession. Obviously, the Swedish do not buy the idea of American liberals that recessionary excess capacity precludes the effectiveness of investment incentives.

But it is not only socialist and communist states that realize the importance of capital formation as the basis for full employment and higher living standards. The anemic rate of American investment is matched only by the British. In Canada investment is 22 percent of GNP, in West Germany it is 26 percent, in France 27 percent, in Japan 36 percent.

Why did the U.S. and Britain choose a different economic policy? I believe the reason is that Keynesian economics caught on only in the U.S. and Britain. In Germany Keynesian economics was consciously rejected. After World War II the U.S. Department of State sent a commission of American economists, led by Keynesians, to West Germany to investigate and to make recommendations to the German government on economic policy. The American economists prescribed Keynesian policies, but Ludwig Erhard, the Economics Minister at the time who later became Chancellor, refused and threatened to resign if the Keynesian view was forced upon him. Instead, the German government, supporting Erhard, embarked upon the opposite course: a balanced budget and the maintenance of a sound currency, the elimination of price controls, incentives to save and invest, and encouragement to private enterprise rather than government-directed economy. Following this course Germany went from ruins to the most prosperous nation in Europe. She invested her way to prosperity.

What did the American Keynesians recommend to West Germany? Precisely what the Congressional Budget Office, and liberal members of Congress are recommending today: government jobs, easy money, and government spending as the road to prosperity. The American Keynesians said that the West Germans had an "excessive concern for price stability" and thus recommended inflation. The American Keynesians objected to the German capital investment incentives on the grounds that they were "an expenditure of tax funds which would otherwise have been collected by the government." The American Keynesians said that the Germans' nostalgic hopes "looking toward a revival of the nineteenth century role of a capital market are doomed to disappointment and the capital market plays no such role in any modern country and there is no prospect that it will." More than any other ridiculous statement in the report, that one reveals the deep prejudice of American Keynesians in favor of government rather than individual action.

On the other hand the British did not need an American commission of economists to tell them what to do wrong. They adopted the policies which West Germany rejected. The British used the tax system to squeeze saving, investment, and incentive. They inflated; they controlled wages and prices; they nationalized; they centrally planned. They spent their way to prosperity and found "the way to make bread out of stones"—or so they thought.

In the U.S., Keynesian economics caught on primarily as a result of a misinterpretation of the cause of the "Great Depression" of the 1930s. The evidence is overwhelming that the American depression owed its depth and length to government intervensionist and monetary mismanagement by the Federal Reserve Board, which resulted in the drastic credit expansion of then the subsequent shrinking of the money supply. Keynesians, however, said the depression resulted from an unequal distribution of income by market forces and from the inability of private saving and investment decisions to maintain a full employment level of spending. It was said that the rich save too much and that in a mature industrial economy there are not enough investment opportunities to use up the savings. It was said that money saved did not get back into the economy through investment, so the result of saving was said to be less total spending, and that meant a fall in national income.

This interpretation of the depression called for redistributive taxation to get money out of the hands of those who were more likely to save it and into the hands of those who were more likely to spend it, and it called for the government to pump up the total level of spending by running budget deficits.

Due to time lags in the spread of knowledge, these old erroneous ideas are now enshrined in the Congressional Budget Office, the U.S. Congress, and in econometric forecasting models at the very time that they are being abandoned by the thinkers of today under pressure of the evidence and better economic analysis. But 30 years is a long time for ideas, no matter how erroneous, to become pervasive, and old Keynesian thinking is today a great barrier to the removal of the existing tax bias in the U.S. against saving and investment. This old thinking perpetuates the bias against saving and investment in our tax code and is also reflected in the fact that by 1974 federal transfer payments alone were equal to the total federal budget expenditures of 1964.

What does the tax bias against saving and investment mean? It means a tax on productivity. Such a tax reduces the incentive to have and increases the incentive to consume.

Saving is the source of capital formation, which is the source of increased productivity. A tax on productivity is a tax that biases decisions away from saving and investment and toward consumption. Obviously, that means less capital formation and, thereby, lower productivity, fewer new jobs, and a lower rate of growth in real wages.

Today it means a capital shortage, the minimum estimate of which is $575 billion over the next ten years. The capital shortage means that with existing rates of saving and investment we cannot meet energy, housing, mass transit, environmental, and defense needs, and maintain the real level of social security benefits and the solvency of pension funds, and provide new jobs for the additional people who enter the work force each year—to say nothing of meeting the demands for rising real wages.

In short, a capital shortage is a jobs shortage. The capital issue is the jobs issue.

There is a capital shortage—a jobs shortage—because there is a tax bias against saving and investment. The tax bias is consistent with the Keynesian views and prejudices that determine the outlook of the economic liberals who control the Congress. Unless they change their mind, the existing Congress is not capable of providing the economic policy required if there are to be enough jobs for our work force. Jobs creation is a matter of recognizing the need of a free enterprise Congress, a Congress made less hostile to private enterprise. And I say that in recognition of the fact that free enterprise is a bipartisan issue.

The jobs issue is not just the critical need to put the presently unemployed back to work, such as in the Buffalo area I represent where the unemployment rate is 14 per cent, it is also a matter of creating new jobs for the new entrants, the graduates, the minorities and the women moving into the labor force. Workers who unfortunately are laid off from their jobs have unemployment compensation to fall back on, and plant capacity exists with which to reemploy them in many cases. The problem here is getting people back to work, without resorting to ruinous inflation. New additions to the work force, however, require new additions to the capital stock with which to employ them. In addition, unemployment for new entrants is more frustrating, because they do not have unemployment compensation to fall back on. To qualify for unemployment compensation, you must have lost your job through no fault of your own. A person who has never had a job cannot qualify.

It is estimated that 2 million additional people will enter the labor market every year for the next five years. The American economy has not been growing fast enough—has not been creating new capital fast enough—to create 10 million new jobs in the next five years. Americans are not saving enough—are not releasing enough real resources from current consumption—for a sufficiently rapid expansion of investment, and business is not earning enough in profits to make the capital investments necessary to provide a growing number of well-paid jobs.

Department of Commerce statistics show that the retained earnings of corporations, adjusted for the phantom inventory profits and understated depreciation costs that result from inflation, averaged only $21.3 billion yearly during 1965–1974. During this period when national income increased by $519 billion, corporate profits declined both absolutely and as a percentage of national income. Adjusted after tax profits have fallen from $48.9 billion in 1966 to $38.7 billion in 1974. Retained earnings have fallen from $29.4 billion in 1966 to $7.6 billion in 1974.

The trend in profits clearly has been downward. Before tax profits have fallen from 13.3 percent of national income in 1966 to 8.4 percent of national income in 1975. After tax profits have fallen over the same period from 7.9 percent of national income to 4.5 percent.

To be sure, there are profit abberations that make good targets for anti-business politicians and PR for shortsighted corporations, but which are misleading. For example, if a company's profits drop from, say, $10,000 to $4,000, and then go up to $8,000, headlines can report a 100 percent increase, but the company is nevertheless worse off than before the drop.

As my friend, John Jennings, the very able economic consultant, has pointed out, the difference between the reality of profits and public opinion about profits is striking. Surveys have shown that people believe the average manufacturer's after-tax profits on sales are 33 percent. In reality, they are 5.2 percent. People believe the average auto company's profit on sales to be 39 percent. The reality is 1.9 percent. People believe the oil companies make a 61 percent profit on sales, when in reality they are 7.2 percent. Misguided corporate PR and accounting methods which overstate profits during inflation, and thus mislead the company along with the tax collector about profits, must take some responsibility for such a badly misinformed public.

As long as the work force has the mistaken belief, as surveys have shown, that the money available for division between employees and profits is split 75 percent for profit and 25 percent for employees, workers will continue to make wage demands that overprice labor and require the government to compensate by inflating the money supply to avoid the unemployment that results from overpricing. Inflation, in this case, is used by the government to prevent unemployment by wiping away any wage gains that are not justified by productivity. The result is that although the money wage may greatly increase, the real wage does not rise beyond productivity gains.

I believe that working Americans would in many cases cease trying to get more than their fair share of the national income if more people were made aware that 76 percent of the national income is paid in wages, salaries, and benefits to employees, and this is up from 67% in 1950. Corporate profits before taxes receive 8 percent of the national income. Farm owners receive a scant 2 percent of the national income. Another scant 2 percent is paid in rental income. The non-corporate business sector receives 5 percent, and 7 percent is paid in interest, more than a third of which is interest paid on the federal debt.

That adds up to 100 percent of the national income, and that is all there is. With the overwhelming amount that is already paid to employees compared to owners, there does not seem to be any room for labor to get more at the expense of others. To get more requires more to be produced, and that requires more investment. It's as simple as that.

In the 1970's corporate-retained profits have averaged only 1.8 percent of national income. That tiny figure will not provide much new investment. To finance their expansion, firms have been forced into credit markets, where they are then crowded out by government borrowing. Although the private sector provides over 80 percent of the jobs in the economy, government has recently been borrowing about 80 percent of the total available funds in order to finance the deficit in its budget. It makes no sense for government spending policies to take capital away from the private sector that provides 80% of the employment in this country.

My response, and that of 107 cosponsors in the Congress, to the need to create new jobs at a faster rate is the Jobs Creation Act. This bill is directed toward achieving more neutral tax treatment of saving and investment.

The Jobs Creation Act would increase the savings available for investment by:

Providing tax credits for increases in qualified savings in commercial or mutual savings banks, savings and loans, building and loans or similar associations, credit unions, and life insurance or mutual companies and in qualified bonds and common and preferred stock in domestic corporations;

Enlarging the dollar amount for individual retirement accounts, savings and bonds;

Excluding from gross income the dividends received from domestic corporations;

Excluding the first $1,000 of capital gains;

Reducing the corporate normal tax from 22 to 20 percent on a permanent basis;

Reducing the corporate surtax from 26 to 22 percent on a permanent basis;

Increasing the corporate surtax exemption to $100,000 on a permanent basis;

Increasing the investment tax credit to 15 percent for investment over $50,000, 20 percent for investment from $25,000 to $50,000, and 25 percent from zero dollars to $25,000 and making these changes permanent;

Allowing the owners to defer capital gains taxes on the sale of small businesses if the gain is reinvested in one year in another small business;

Increasing the ADR range from 20 to 40;

Providing for a new alternative system of capital recovery allowances;

Providing for a one-year writeoff of mandated pollution control facilities;

Allowing the interest exclusion on industrial development bonds for issues up to $10,000,000;

Incorporating the President's estate tax proposals for family-owned small businesses and farms.

Dr. Norman Ture, an economic consultant and George Washington University professor and former Director of Tax Studies for the National Bureau of Economic Research, has undertaken an econometric simulation of the effects on the economy of the Jobs Creation Act. He concludes that by reducing the tax bias against saving and investment, the Act would so stimulate production that over a three year period we would have a $600 billion dollar increase in GNP, a $230 billion increase in capital outlays, and a $45 billion increase in Federal revenues over what would otherwise occur. The result of this tremendous stimulation to production is the creation of millions of new jobs and higher real wages.

The Humphrey-Hawkins "Full Employment" bill before the Congress is guaranteed to expand unemployment in the private sector and, thereby, create a growing public service constituency. The Humphrey-Hawkins bill will expand private sector unemployment for two basic reasons:

(1) By guaranteeing a government-funded job to everyone who is unemployed, the bill removes all restraint from wage demands. No one would have to fear the unemployment effects of forcing huge wage increases. They could demand 20–30–40–50 percent wage increases, such as in Britain, knowing that all who were bumped out of jobs by overpricing labor have a guaranteed Federally-funded job cushion to fall back on. The presently unemployed would be diverted from reemployment in productive, tax-producing private sector jobs as the recovery proceeds. Such a tightening of the labor market would allow exorbitant wage demands that could abort the recovery, thus throwing additional people out of tax-producing private sector employment and into tax consuming public employment.

(2) Public employment jobs have to be paid for in real terms—in terms of resources diverted from alternative uses—just like anything else, and there would be a lot of them to pay for. How would they be paid for? To pay for public employment out of taxes or borrowing from the private sector just transfers resources out of private sector activities, including investment, into public sector activities. Clearly, the private sector cannot maintain the same level of activities when resources are transferred out of it. Therefore, private sector jobs must fall as public employment jobs financed by taxes or borrowing rise. Alan Fechter, an economist at the Urban Institute has done an extensive study of public employment and he concludes that there is "a substantial amount of displacement" in the long run of private sector jobs.

To pay for public employment by inflating the money supply would simply set the boom-bust cycle off again before recovery is completed from the previous cycle. People are beginning to realize that no one benefits from inflation except the federal government. The reason government benefits is that inflation pushes everyone into higher tax brackets, with the result that the government receives a larger percentage of the national income in tax receipts, just as it would do by raising the tax rates. The evidence is certainly in that inflation destroys capital because of widely used accounting practices which result in firms paying taxes on profits that they do not really have.

People are beginning to hear about accounting practices which during inflation result in overstated and over taxed profits as a result of phantom inventory profits and understated depreciation costs. But not everyone knows precisely how this occurs, and many people still think inflation is good for profits, so it may be worthwhile to specifically illustrate the process.

Let's look at 1974, a year of substantial inflation. The corporate sector showed profits before tax of $132.1 billion on which they had a tax liability of $52.6 billion, or an effective tax rate of 40 percent of profit. However, the U.S. Department of Commerce calculates that in 1974 corporate sector inventories were over valued by $38.5 billion and depreciation was under stated by $2.3 billion, with the result that corporations had a tax liability of $52.6 billion on only $91.3 billion in actual profits, which means that in 1974 the corporate sector paid taxes on profits at an effective tax rate of 58 percent.

The overstatement of profits before tax means that corporate retained earnings are overstated by the same amount. Commerce Department figures show that in 1974 corporate retained earnings with inventory valuation and capital consumption adjustments totaled only $7.6 billion. Furthermore, if the profits earned by American corporations abroad are omitted and only the retained earnings from domestic operations are considered, then in 1974 corporate retained earnings were a negative figure of —$2.3 billion. That is, on their domestic earnings, American corporations in 1974 paid out more in taxes and dividends than they earned.

This does not mean dividends were high. In

1974 dividend payments totaled only $31.1 billion. In 1975, dividend payments (including dividends paid to nonprofit institutions such as charitable foundations) totaled $32.8 billion compared to transfer payments (Social Security, Medicare, welfare, government pension and unemployment payments) of $175 billion. Taxable dividends paid to individuals were only $18.7 billion, which is equal to the amount paid in veterans benefits and is about one-fourth the amount of Social Security payments.

Some people may say: "so what, only the rich get dividends, and they have enough money." This is to ignore the large stake ordinary people have in dividends. Not only is there the matter of incentive, the need to reward those who provide the capital that provides the jobs. In addition, Internal Revenue statistics show that of the eight million tax returns reporting dividend income in 1973 (the latest figures available), three million were from taxpayers earning $10,000 and less. These three million taxpayers, or families, received dividend payments of about $3 billion, an average of $1,000 each.

If we bring pension funds into the picture, the ownership stake the working men and women have in American business becomes even more clear. Pension funds own about one-third of American large business.

Capital formation, then, is not, and cannot be, a matter of benefiting the rich at the expense of those working for wages. We need a greater rate of expansion of plant and equipment in order to create jobs and to raise the productivity of labor so workers can receive more for their work and consumers more for their money and so we can maintain our position in international markets.

Neither does capital formation—jobs creation—mean that we need to cut the federal budget. It does not require that we cut people off who are dependent on government funding. It does not mean that we have to stop government programs from growing. All it means is that we have to reduce the rate at which the government sector grows, so that it ceases to grow faster than productivity in the private sector.

Too many people think that bigger government is needed to offset the power of big business. But the government sector long ago dwarfed the corporate sector. In 1975 the federal budget deficit alone was $18.3 billion greater than the total after-tax earnings of the corporate sector.

Some of you listening to my speech with its emphasis on the need for more saving and investment, and the need to curtail the preemption of more and more of the economy's resources by the public sector, may feel a bit uneasy. You may remember your economics courses in college in which increased government spending was touted as the answer to the alleged inability of a market economy to maintain a full employment level of spending. You may remember hearing that people save more than can be invested, thus causing national income and employment to fall, and that the more people try to save, the worse unemployment will become. In college textbooks it was called "the paradox of thrift."

Keynesian economists, now for the most part old men, are in their fourth decade of teaching students, lawmakers, and the public that government can cause the national income to increase by taxing the private sector and spending the results. When the political limits to tax rates were reached, Keynesians were there to teach lawmakers to finance additional spending by running deficits. Borrowing from the private sector to pay for government spending programs is also claimed to increase the national income.

Thus, whatever the government cannot tax away from the private sector, it should borrow. Anyone swayed by this line of reasoning should consider its implication, which is that the greater the percent of the national income spent by government, the higher the national income will be. The economy will really take off the day the government spends more than 100 percent of the national income and finances the difference with a deficit!

The justification of big government on the grounds of economic prosperity is the reverse of the wisdom of Adam Smith's *The Wealth of Nations*, whose bicentennial is also this year. It is not surprising that in this process of reversing principles of 1776, government adopted a new form of taxation without representation—inflation—for when the government reaches the limits of taxing and borrowing, it monetizes debt, that is, it increases the money supply to pay for the government's bonds, thereby transferring purchasing power from the population as a whole to the recipients of the newly created money.

Others of you listening to my speech with its emphasis on the inadequacy of profits and investment and its concern with crowding out may be perplexed. You may have seen, for instance, the U.S. News and World Report Weekly Report of February 27 which states:

"Now for the cheer: Corporate balance sheets look better than in years. That's what is helping to keep the stock market's euphoria going. Evidence of that is clear in reports that big business saved enough of its earned income last year to finance most expansion planned for '76 without much need to borrow in the bond market. Meaning? Less interest-rate pressure—no crowding out."

Here again we have artificial good news. The report does not tell us that the reason firms have enough retained earnings to finance their expansion programs is not that their earnings are high but that their expansion programs are low. The facts of the matter are that the Commerce Department's March survey of capital spending indicates that real business investment in 1976 will be 3 percent lower than in 1975, and that 1975 showed a 12 percent drop in real investment below 1974.

These are drops in the rate of investment, in the additions of new capital to the total capital stock, not decreases in the country's total stock of capital. It is not exactly like we are eating our seed corn, but it is like a farmer who is expecting a larger family but who is not adding enough to his seed corn to be able to plant enough additional crops to accommodate the additions to his family.

Professional economists are increasingly realizing that monetary expansion no longer works as a means of stimulating production, but simply causes inflation. We do not need more paper money, we need more production to absorb the money already in the system and to bring down an inflation that is running at a rate of 5.6 percent even during a recession. To get a greater rate of production requires a lower rate of taxes. Over a year ago Professor Robert Mundell of Columbia University stated that "the level of U.S. taxes has become a drag on economic growth in the United States. The national economy is being choked by taxes—asphyxiated. Taxes have increased even while output has fallen, because of the inflation." Free enterprise isn't dead, but it is being choked by excessive regulation and taxes.

We must not let the fact that there is excess capacity during recovery from recession obscure the fact that there is a capital shortage, a shortage which will produce mounting rates of unemployment in future years unless there is tax reform to reduce the existing tax bias against saving and investment. Although I am mainly concerned with the long-run health of our economy, with saving the free enterprise system from destruction by government, our tax reform legislation, the Jobs Creation Act, is also directly relevant to the current recession. As most people recognize, the current recovery is consumer-led and is not being led by capital investment. What this may mean is that the recovery will peak at full capacity, and the monetary expansion necessary to accommodate the third huge deficit in a row could result in an outbreak of inflation beyond the high rates we recently suffered, thus leading to a worse recession.

These dangers we face can be avoided by intelligent tax reforms which provide resources for jobs-creating investments and the badly needed funds for making our existing plants and industries more modern and competitive for world markets.

Fiscal conservatives can be assured that the tax provisions of the Jobs Creation Act do not produce revenue losses and will not enlarge the government's deficit. The tax reduction provisions of the Jobs Creation Act are not directed toward stimulating consumption, but toward increasing production. The increase in tax receipts from the expanded tax base more than offsets the loss in tax receipts from lower tax rates.

It is not a coincidence that it was in 1776, the year both of the Declaration of Independence—the great single statement of political freedom—and of the publication of Adam Smith's "The Wealth of Nations"—the greatest single statement of economic freedom—that James Watt's newly patented steam engine was first put to work. It was that steam engine which started to revolutionize the modern world. Watt and those who followed him in the competitive struggle to make a better engine and sell it for less did more to take women and children out of the coal mines and off the towpaths of the canals, more to take children out of the factories, than all the 19th century social activists combined. Yet Watt would be unknown today had it not been for a man named Matthew Boulton. Boulton was the man who risked the $150,000 in capital on Watt's invention.

Aluminum was so expensive in 1870 that Napoleon III of France had an aluminum table set for state dinners, for it was more valuable than gold. Today, aluminum is found in all American kitchens, no matter how humble. As far back as the Second World War, it was estimated that electric power alone in this country was performing the work equal to the labor of half a billion men—500,000,000—working eight hours a day. It is many times that now. And, just 100 years ago, it took a week to produce the same amount of wheat that today can be produced with just a single hour of human labor.

What did it? High taxes? Big government spending? Red ink? Government regulations? No! What did it was individuals free to retain for their own use the fruits of their labor. What did it was human action free to invent and produce the steel plow, tractor, harvester, chemical fertilizer, better seed, cheaper transportation, these and all the many other results of capital ventured by investors in the hope that it would produce these "better mouse traps" of which progress is made. It was human action freed from the mercantilistic tentacles of government in the 18th Century.

Look further at the difference between 1776 and 1976 and compare the living standard today with then. Men and women were working 12 to 18 hours a day and 6 or more days a week. Child labor was the norm. Horses and oxen were plowing the fields and pulling wagon and carts. Electrical power consisted of Benjamin Franklin pondering the effects on his kite of an electrical storm. The internal combustion engine was a hundred years away from even being invented. Machines were in their infancy. Sail and flow-

ing water were the means of waterborne commerce. There was no running water in homes. It was a hard life by today's standards even for the wealthiest.

We know what we have today by contrast. Prosperity has reached a level never known in the world's history. Workers' real wages have reached a level unprecedented in any economy. We produce in one hour the wheat it took then one week to produce. We travel in five hours the distance across America it took then two full seasons to travel. Instead of a campaign to open the Appalachians we have walked on the moon. Of all the figures one can recite, the most revealing is this: One-half of all the goods produced in the past 10,000 years, from the beginning of man's quantifiable economic history in 8,000 B.C., have been produced in the United States in just the past two hundred years. As I said earlier, more and better tools is the key.

Before the Industrial Revolution, and in its early days, children had to work 14–16–18 hour days just in order to live. With the advent of the machine age, which so greatly raised the productivity of labor and made it possible for less human labor to support more people, not only do children grow up in schools instead of factories, but we have the ability to support millions of people in moderately comfortable lives while they are out of work. "Modern-day Luddites" who fear machinery, who say capital exploits labor, overlook not just our unprecedented living standards but also that it has been the accumulation of capital that took women and children out of the mines and gave them a chance and a choice to be in the home and in the school. They overlook that it is capital that has so greatly raised the productivity of labor that the economy can support millions of people who are out of work. It is not capital that exploits labor as Karl Marx mistakingly promulgated, it is labor that exploits capital.

It is the productivity of free enterprise that allows people and nations the opportunity to be humane, charitable and progressive.

That is why I advocate freedom as the road to prosperity.

That is why I advocate capital formation to increase the productivity of labor and expand job opportunities.

That is why I am opposed to the increased production of the three principle products of government—regulation, taxes, and inflation. These government products make it hard for companies to make and keep profits. I agree with the great labor leader, Samuel Gompers, who said that "The worst crime against working people is a company that fails to make a profit."

Ladies and gentlemen the rising productivity of free enterprise is the answer to inflation and recession.

SECRETARY OF STATE KISSINGER'S SPEECH ON LAW OF THE SEA

Mr. PELL. Mr. President, today Secretary of State Kissinger delivered a memorable speech on the Law of the Sea. As my colleagues are aware, the third session of the third United Nations Conference on the Law of the Sea is taking place in New York now. The 140 participants in that conference are endeavoring to produce a comprehensive agreement for the orderly use and management of the oceans, the deep seabed, and their resources.

Secretary Kissinger, in his speech today, outlined in a very forceful and forthcoming fashion the commitment of the United States to achieve early agreement on a law of the sea treaty which will be of benefit to all the nations of the world. He also put forth specific new proposals to give momentum to the negotiations and to demonstrate America's determination to resolve the remaining issues.

As chairman of the Senate Foreign Relations Subcommittee on Oceans and International Environment and as the sponsor of the Senate resolution which led to these negotiations, I wish to commend the Secretary for his action and to express my support for his initiative. I am also pleased that the President has asked the Secretary of State to head the U.S. delegation at the next, and hopefully final, session following the New York session.

This past January, in an Op-Ed article which was published by the New York Times, I urged that the administration take new and imaginative, substantive initiations in an effort to break the negotiating logjam. I also expressed the view that if the conference is to succeed, President Ford and Secretary Kissinger must become more directly involved in the negotiating process. I am very pleased that action has now been taken on both of these fronts.

Mr. President, I ask unanimous consent that the text of Secretary Kissinger's speech, together with the text of my own article in the New York Times of January 3, 1976, be printed in the RECORD.

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

THE LAW OF THE SEA: A TEST OF INTERNATIONAL COOPERATION

(By The Honorable Henry A. Kissinger)

Ladies and gentlemen: I want to speak to you today about one of the most important international negotiations that has ever taken *place—the global conference now* underway here in New York on the Law of the Sea. Last summer in Montreal I set forth a comprehensive United States program to help bring matters at this year's Conference to a rapid conclusion. Today I will offer new proposals which address the remaining important issues before us, so that this great negotiation may lead to a final result this year.

For we live in an age when the accelerating forces of modern life—technological, economic, social and political are leading the peoples of the world into unprecedented and interrelated areas of human activity. New prospects are opening before us—fraught with political for international contention, but filled as well with the hope of unparalleled human advancement.

The principal problems which all nations face today are truly global in nature. They transcend geographic and political boundaries. Their complexity eludes the conventional solutions of the past, and their pace outstrips the measured processes of traditional diplomacy. There is the imperative of peace—the familiar but vastly more urgent requirements of maintaining global stability, resolving conflicts, easing tensions; these issues dominates the agenda of relations between East and West. And there are the new challenges of the world's economy and of cooperative solutions to such international problems as food, energy, population, trade and the environment. These are the agenda of the modern period, particularly in the evolving relationship between the developed and the developing nations.

In an international order composed of sovereign states, the precondition of effective policy is security. But security, while essential, is not enough. The American people will never be satisfied with a world whose stability depends on a balance of terror constantly contested.

Therefore, side by side with seeking to maintain the security of free countries, the United States has striven to build a new world based on cooperation. We are convinced that our common progress requires nations to acknowledge their interdependence and act out of a sense of community. Therefore, at the Seventh Special Session of the United Nations General Assembly in September of last year we made a major effort to project our vision of a more positive future. We sought to mobilize collaboration on a global scale on many current issues of economic development. We were gratified by the response to our initiatives. We are prepared to accelerate our effort.

Virtually all major elements of this new age of interdependence are involved in one of the great issues of our time: the question of mankind's use of the oceans. In no area are the challenges more complex or the stakes higher. No other common effort holds so much positive hope for the future relationship between rich nations and poor over the last quarter of this century and beyond.

Today I want to speak to you about the urgency of this issue. The Law of the Sea negotiations now are at a critical stage. There have been many successes, but they will prove stillborn unless all the remaining issues are settled soon. The United States believes that if the present session does not complete its work, another—and final—session should be assembled this summer. If the negotiations are not completed this year the world will have lost its best chance to achieve a treaty in this generation.

I want to focus today upon the most important problems remaining before the Conference to speed their solution. I shall set forth proposals which in our view can serve as the basis for a widely accepted treaty.

THE IMPORTANCE OF THE OCEANS

Most issues in international affairs impinge on our consciousness in the form of *crisis; but many of the most important* problems which crucially affect our future come to us far less dramatically. The world is undergoing fundamental economic, technological and social transformations which do not dominate the daily headlines. Some of them are even more profound in their consequences than most immediate political crises. In no area is this more true than the oceans, a realm which covers 70 percent of the earth's surface.

Freedom of the seas remains basic to the security and wellbeing of most nations. The seaborne commerce of the globe is expected to quadruple within a few decades. The reliance of the world's people upon the seas to carry food and energy is increasing. Modern technology has enabled industries to sweep the seas for fish and to probe the ocean's floor for vital minerals and resources. Mankind's growing dependence on the seas, and the burgeoning world population along their shores, are already burdening the ecology of the oceans—a development of potentially catastrophic significance, for the oceans are the very source of life as we know it, the characteristic distinguishing our world from all other planets.

These developments have brought with them a vast array of competitive practices and claims, which—unless they are harmonized—threaten an era of unrestrained commercial rivalry, mounting political turmoil, and eventually military conflict. We stand in danger of repeating with respect to the oceans the bitter rivalries that have produced endless conflict on land.

A cooperative international regime to govern the use of the oceans and their resources is therefore an urgent necessity. It is, as well, an unprecedented opportunity for the nations of the world to devise the first truly global solution to a global problem. And the

opportunity is all the greater because we start with a clean slate.

Thus, the multilateral effort to agree upon a comprehensive treaty on the law of the sea has implications beyond the technical problems of the use of the oceans. It touches upon basic issues underlying the long-term stability and prosperity of our globe. The current negotiation is a milestone in the struggle to submit man's endeavors to the constraints of international law.

Let us understand more precisely what is at stake:

In a world of growing scarcity, the oceans hold untapped riches of minerals and energy. For example, it is estimated that 40 percent of the world's petroleum and virtually inexhaustible supplies of minerals lie beneath the sea. Our economic growth and technological progress will be greatly affected by the uses made of these resources.

In a world where the growth of population threatens to overwhelm the earth's capacity to produce food, the fish of the seas are an increasingly precious—and endangered—source of protein. The wellbeing and indeed the very survival of future generations may well depend upon whether mankind can halt the present wanton depletion of this vast storehouse of nutrition.

In a world in which the health of the planet our children will inherit depends upon decisions we make today, the environmental integrity of the oceans—which affects the quality of life everywhere—is vital.

And in a world still buffeted by national conflicts, economic confrontation and political strife the free and fair use of the oceans is crucial to future peace and progress.

The oceans are not merely the repository of wealth and promise; they are, as well, the last completely untamed frontier of our planet. As such, their potential—for achievement or for strife—is vast. In the nineteenth century, the Industrial Revolution gave birth to improved communications, technological innovations and new forms of business organization which immeasurably expanded man's capacity to exploit the frontiers and territories of the entire globe. In less than one generation, one-fifth of the land area of the planet and one-tenth of its inhabitants were gathered into the domain of imperial powers in an unrestrained scramble for colonies. The costs—in affront to human dignity, in material waste and deprivation, and in military conflict and political turbulence haunt us still.

Like the non-Western lands of a century before, today it is the oceans which suddenly are accessible to new technology and alluring to exploration. Their promise may be even greater than the untapped lands of the century past. So too is their potential for conflict. The decision will be ours. The international community now stands at the threshold of what can easily turn into a new period of unheralded competitive activity. It is our contention that the nations of the world cannot afford to indulge in another round of unrestrained struggle for the wealth of our planet when the globe is already burdened by ideological strife and thermonuclear weapons.

The United States could survive such competition better than other nations; and should it be necessary, we are prepared to defend our interests. Indeed, we could gain a great deal unilaterally in the near term. But we would do so in an environment of constant and mounting conflict. All nations, including our own, ultimately would lose under such unpredictable and dangerous conditions.

That is not the kind of world we want to see. Our preference is to help build a rational and cooperative structure of international conduct to usher in a time of peace and progress for all peoples. We see the oceans as a trust which this generation holds—not only for all mankind, but for future generations as well.

The legacy of history makes this a difficult task. For centuries, the songs and legends of peoples everywhere have seen the oceans as the very symbol of escape from boundaries, convention and restraint. The oceans have beckoned mankind to rewards of wealth and power, which awaited those brave and imaginative enough to master the forces of nature.

In the modern era the international law of the sea has been dominated by a simple but fundamental principle—freedom of the seas. Beyond a narrow belt of territorial waters off the shores of coastal states, it has long been established and universally accepted that the seas were free to all for fishing and navigation.

Today the simple rules of the past are challenged. Pressure on available food, fuel and other resources has heightened awareness of the ocean's potential. The reach of technology and modern communications have tempted nations to seek to exercise control over ocean areas to a degree unimagined in the past. Thus coastal states have begun to assert jurisdictional claims far out to sea—claims which unavoidably conflict with the established law and with the practices of others, and which have brought a pattern of almost constant international conflict. Off the shores of nearly every continent, forces of coastal states challenge foreign fishing vessels: the "Cod War" between Iceland and Great Britain; tuna boat seizures off South America; Soviet trawling off New England—these are but some examples.

It is evident that there is no alternative to chaos but a new global regime defining an agreed set of rules and procedures. The problem of the oceans is inherently international. No unilateral or national solution is likely to prevail without continual conflict. The Law of the Sea Conference presents the nations of the world with their choice and their opportunity. Failure to agree is certain to bring further, more intense confrontation, as the nations of the world—now numbering some 150—go all out to extend unilateral claims.

THE LAW OF THE SEA CONFERENCE

These are the reasons why the international community has engaged itself in a concentrated effort to devise rules to govern the domain of the oceans. Substantive negotiations on a Law of the Sea Treaty began in 1974 in Caracas; a second session was held in Geneva last year. Now, here in New York, work is underway aimed at concluding a treaty before this year is out.

It is no exaggeration to say that this is one of the most significant negotiations in diplomatic history. The United States approaches this negotiation with conviction that we simply cannot afford to fail.

PROGRESS TO DATE

The issues before the Law of the Sea Conference cover virtually every area and aspect of man's uses of the seas, from the coastline to the farthest deep seabed. Like the oceans themselves, these various issues are interrelated parts of a single entity. Without agreement on all the issues, agreement on any will be empty, for nations will not accept a partial solution—all the less so as some of the concessions that have been made were based on the expectation of progress on the issues which are not yet solved.

Significant progress has been made on many key problems. Most prominent among them are:

First, the extent of the territorial seas, and the related issue of free transit through straits. The Conference has already reached widespread agreement on extending the territorial sea—the area where a nation exercises full sovereignty—to 12 miles. Even more importantly, there is substantial agreement on guaranteed unimpeded transit through and over straits used for international navigation. This is of crucial importance, for it means that the straits whose use is most vital to international commerce and global security—such as the Straits of Gibraltar and Malacca—will remain open to international sea and air transit. This is a principle to which the United States attaches the utmost importance.

Second, the degree of control that a coastal state can exercise in the adjacent offshore area beyond its territorial waters.

This is the so-called "economic zone," in which lie some of the world's most important fishing grounds as well as major deposits of oil, gas and minerals. Growing international practice has made it clear that in the absence of an international treaty, coastal nations would eventually attempt to establish the extent of their own zone and determine for themselves what activities—national and international—could be carried out there. These would be areas through which most of the world's shipping moves and which is as well the richest ground for economic exploitation. The complexities and confrontations which would result from such an approach are obvious.

Therefore we are gratified that the Conference is ready to settle upon a two-hundred mile economic zone. This will permit coastal state control over some activities while maintaining vital and traditional international freedoms. The coastal states will control fisheries, mineral, and other resource activities. At the same time, freedom of navigation and other freedoms of the international community must be retained—in this sense the economic zone remains part of the high seas. In addition, the Treaty must protect certain international interests, such as ensuring adequate food supply, conserving highly migratory species, and accommodating the concerns of states—including the landlocked—that otherwise would derive little benefit from the economic zone.

Third, the rights of coastal states and the international community over continental margin resources where the margin extends beyond 200 miles. The continental margins is the natural prolongation of the continental land mass under the oceans. The question is: who shall have the right to extract seabed resources in this region and who shall share in the benefits of such exploitation? We seek a solution which will meet the international community's interest in the area beyond 200 miles and still take into account the desire of coastal states with broad margains to exploit their margin resources beyond the proposed economic zone. The Conference has before it a reasonable proposal for agreement on this question. In general, the coastal states would have jurisdiction over continental margin resources beyond 200 miles to a limit with a precise definition.

Under the system now being negotiated the treaty would also provide for the coastal states share with the international community a specified percentage of the value of mineral resources exploited in that area for the benefit of the developing countries, including the landlocked countries. The coastal state would pay a royalty based upon the value of production at the well-head in accordance with a formula fixed in the Treaty; the money would then be distributed by an international authority under a formula still being negotiated.

Fourth, the protection of the marine environment. Effective international measures to protect the oceans from pollution is vital to the health, indeed, to the very survival of our planet. The Law of the Sea Treaty will deal with all aspects of marine pollution. On the critical issue of pollution caused by seagoing vessels, we anticipate that the Conference will provide for effective enforcement

of environmental protection regulations. We must now put forth our best efforts to reach satisfactory agreement on the enforcement of regulations covering all the outstanding issues concerning the protection of the marine environment.

Progress on these key issues has been heartening. But we must reach agreement on the remaining issues, or else the encouraging progress made to date will be lost and international anarchy will threaten.

THE REMAINING ISSUES

There are three major remaining unresolved issues:

First, ways must be found to encourage marine scientific research for the benefit of all mankind while at the same time protecting the legitimate interests of coastal states in their 200-mile economic zone, the area in which some 80 percent of such research now takes place.

Second, the Treaty must include provisions for compulsory and impartial settlement of disputes in order that differences on interpretation and incompatible practices can be settled peacefully.

And third, we must create an international regime for the exploitation of resources of the deep seabeds, those heretofore inaccessible reaches of the seas beyond the economic zone and continental margin.

UNITED STATES PROPOSALS

The United States today proposes the following package of * * * as a contribution to helping the Conference reach a swift and comprehensive solution on the major remaining problems:

MARINE SCIENTIFIC RESEARCH

The health, the safety and the progress of the world's people may vitally depend upon the extent of marine scientific research; it must be fostered and not impeded. To further marine scientific research the United States is prepared to agree to a reasonable balance between coastal state and international interests in marine scientific research in the economic zone. We will agree to coastal state control of scientific research which is directly related to the exploration and exploitation of the resources of the economic zone. But we shall also insist that other marine scientific research not be hampered.

We recognize that this distinction is bound to raise difficult questions in practice. This is why we believe that its determination cannot be left either to the coastal state or to the state seeking to do scientific research; it must ultimately be decided by an impartial body.

For our part, the United States is prepared to guarantee that coastal states receive advance notice of scientific research in the economic zone, will have the right to participate in that research, and will receive data and results of such research as well as assistance in interpreting the significance of those results.

This proposal would help resolve the differences between those who desire complete coastal state control over all marine scientific research and those who seek to maintain complete freedom for such research in the proposed economic zone.

DISPUTE SETTLEMENT

No nation could accept unilateral interpretation of a Treaty of such vast scope by individual states or by an international seabed organization or any other interested party.

To promote the fair settlement of disputes involving the interpretation of the Treaty, the United States proposes the establishment of an impartial dispute settlement mechanism whose findings would be binding on all signatory states. Such a mechanism would ensure that all states have recourse to a legal process which would be non-political, rapid, and impartial to all. It would especially protect the rights of all states in the economic zone by resolving differences in interpretation of the Treaty which might lead to serious conflict between parties. It must be responsible for assuring the proper balance between the rights of coastal states and the rights of other states which also use—and indeed often are dependent upon—the economic zones of coastal states. And its decisions must be obligatory.

Establishment of a professional, impartial and compulsory dispute settlement mechanism is necessary to ensure that the oceans will be governed by the rule of law rather than the rule of force. Unless this point is accepted, many nations could not agree to the treaty, since only through such a mechanism can they be assured that their interests will be fairly protected. And agreement on this matter will make accommodation on other issues easier.

THE DEEP SEABEDS

The third, and the most complex and vital issue remaining before the Conference, is the problem of the deep seabeds.

For decades we have known that the deep seabeds contain great potential resources of nickel, manganese, cobalt and copper—resources whose accessibility could contribute significantly to global economic growth in the future. It is only recently that the technology has been developed which can enable us to reach those deposits and extract them.

The Conference has not yet approached agreement on the issue of the deep seabeds because it has confronted serious philosophical disagreements. Some have argued that commercial exploitation unrestrained by international treaty would be in the best interests of the United States. In fact this country is many years ahead of any other in the technology of deep sea mining, and we are in all respects prepared to protect our interests. If the deep seabeds are not subject to international agreement the United States can and will proceed to explore and mine on its own.

But while such a course might bring us a short-term advantage, it poses long-term dangers. Eventually any one country's technical skills are bound to be duplicated by others. A race would then begin, to carve out deep sea domains for exploitation. This cannot but escalate into economic warfare, endanger the freedom of navigation, and ultimately lead to tests of strength and military confrontations. America would not be true to itself, or to its moral heritage, if it accepted a world in which might makes right—where power alone decides the clash of interests. And, from a practical standpoint, no one recognizes more clearly than American industry that investment, access, and profit can best be protected in an established and predictable environment.

On the other hand, there are those who would place all the deep seabed's resources under an international authority. Such a proposal would not provide adequate incentives and guarantees for those nations whose technological achievement and entrepreneurial boldness are required if the deep seabeds are to benefit all mankind. It would give control to those who do not have the resources to undertake deep seabed mining.

Let me briefly review the specific issues before us and then set forth the proposals which we believe can form the basis for a new consensus on the deep seabeds.

First, the decision-making machinery for managing the deep seabeds.

There has been considerable debate over the form and the powers of the decision-making machinery established under the Treaty.

The United States is prepared to accept international machinery; but such machinery must be balanced, equitable, and ensure that the relative economic interests of the countries with important activities in the deep seabeds be protected, even though those countries may be a numerical minority.

Second, access to the deep seabeds. The Conference has been struggling with the issue of which nations, which firms, and which international authorities will have direct access to, and share in the benefits from, the developing of deep seabed resources. The United States understands the concern that the riches of the seas not be the exclusive preserve of only the most powerful and technologically advanced nations. We recognize that the world community should share in the benefits of deep seabed exploitation.

What the United States cannot accept is that the right of access to seabed minerals be given exclusively to an international authority, or be so severely restricted as effectively to deny access to the firms of any individual nation including our own. We are gratified to note an increasing awareness of the need to avoid such extreme positions and to move now to a genuine accommodation that would permit reasonable assurances to all States and their nationals that their access to these resources will not be denied.

Third, the effect of seabed mining on land-based producers. Land-based producers of seabed minerals are concerned that seabed production may adversely affect their national economies. This is an especially serious problem since many of these producers are poor, developing countries.

We take these concerns seriously. But at the same time it must be recognized that commercial seabed production of these metals is at least five years away. For many years thereafter, seabed production will amount to only a fraction of total global production. Moreover, global metal markets are expanding and should easily be able to accommodate additional production from the seabeds without adversely affecting revenues of land-based producer countries.

UNITED STATES PROPOSALS FOR THE DEEP SEABEDS

The United States is prepared to make a major effort to resolve these issues equitably and to bring the Law of the Sea Conference to a swift and successful conclusion. In this spirit, the United States offers the following proposals.

First, to ensure an equitable decisionmaking system, the United States continues to believe that the Treaty should authorize the formation of an International Seabed Resource Authority to supervise exploration and development of the deep seabeds. The Authority would be comprised of four principal organs:

An Assembly of all member states, to give general policy guidance;

A Council, to serve as the executive, policy-level and main decisionmaking forum, setting operational and environmental rules for mining, and supervising the contracts for deep seabed mining;

A Tribunal, to resolve disputes through legal processes; and

A Secretariat, to carry out the day-to-day administrative activities of the Authority.

THE UNITED STATES PROPOSES

That the power of the Authority be carefully detailed by the Treaty in order to preserve all those rights regarding the uses of the seas which fall outside the competence of the Authority, and to avoid any jurisdictional overlap with other international organizations;

That the composition and structure of the Council reflect the producer and consumer interests of those states most concerned with seabed mining. All nations whose vital national economic concerns are affected by decisions of the Authority must have a voice and influence in the Council commensurate with their interests;

That the proposed permanent seabed Tribunal adjudicate questions of interpretation of the treaty and of the powers of the International Authority raised by parties to the Treaty or by private companies engaged in seabed mining. Without a Tribunal, unresolved contention is a certainty. Such a body

will be necessary if any seabed proposal is to win wide acceptance.

Second, to ensure that all nations, developed and developing, have adequate access to seabed mining sites;

The United States proposes that the Treaty should guarantee non-discriminatory access for states and their nationals to deep seabed resources under specified and reasonable conditions. The requirement of guaranteed access will not be met if the Treaty contains arbitrary or restrictive limitations on the number of mine sites which any nation might exploit. And such restrictions are unnecessary because deep seabed mining cannot be monopolized: there are many more productive seabed mining sites than conceivably can be mined for centuries to come.

The United States accepts that an "Enterprise" should be established as part of the International Seabed Resource Authority and given the right to exploit the deep seabeds under the same conditions as apply to all mining.

The United States could accept as part of an overall settlement, a system in which prime mining sites are reserved for exclusive exploitation by the Enterprise or by the developing countries directly—if this approach meets with broad support. Under this system, each individual contractor would propose two mine sites for exploitation. The Authority would then select one of these sites which would be mined by the Authority directly or made available to developing countries at its direction. The other site would be mined by the contractor on his own.

The United States proposes that the International Authority should supervise a system of revenue-sharing from mining activities for the use of the international community, primarily for the needs of the poorest countries. These revenues will not only advance the growth of developing countries; they will provide tangible evidence that a fair share in global economic activity can be based either on royalties or on a system of profit-sharing from contract mining. Such a system would give reality to the designation of the deep seabeds as the common heritage of all mankind.

Finally, the United States is prepared to make a major effort to enhance the skills and access of developing countries to advanced deep seabed mining technology in order to assist their capabilities in this field. For example, incentives should be established for private companies to participate in agreements to share technology and train personnel from developing countries.

Third, in response to the legitimate concerns of land-based producers of minerals found in the deep seabeds, we offer the following steps as an additional major contribution to the negotiations.

The United States is prepared to accept a temporary limitation, for a period fixed in the Treaty on production of the seabed minerals tied to the projected growth in the world nickel market, currently estimated to be about 6 percent a year. This would in effect limit production of other minerals contained in deep seabed nodules, including copper. After this period, the seabed production should be governed by overall market conditions.

The United States proposes that the International Seabed Authority have the right to participate in any international agreements on seabed-produced commodities in accordance with the amount of production for which it is directly responsible. The United States is prepared to examine with flexibility the details of arrangements concerning the relationships between the Authority and any eventual commodity agreements.

The United States proposes that some of the revenues of the International Seabed Resource Authority be used for adjustment assistance and that the World Bank, regional development banks, and other international institutions assist countries to improve their competitiveness or diversify into other kinds of production if they are seriously injured by production from the deep seabeds. An urgent task of the International Authority, when it is established, will be to devise an adjustment assistance program in collaboration with other international institutions for countries which suffer economic dislocations as a result of deep seabed mining.

These proposals on the issue of deep seabed resources are offered in the spirit of cooperation and compromise that characterized our economic proposals at the Seventh Special Session and that guides our policies toward the developing nations. The United States is examining a range of commodity problems and ways in which they might be fairly resolved. We intend to play an active role at the United Nations Conference on Trade and Development next month in Nairobi and come forward with specific proposals. We look toward a constructive dialogue in the raw materials commission of the Conference on International Economic Cooperation in Paris. And we are actively committed to producer-consumer forums to discuss individual commodities—such as the recent forum on copper.

The United States believes that the world community has before it a grave responsibility. Our country cannot delay in its efforts to develop an assured supply of critical *resources through our deep seabed mining* projects. We strongly prefer an international agreement to provide a stable legal environment before such development begins, one that ensures that all resources are managed for the good of the global community and that all can participate. But if agreement is not reached this year it will be increasingly difficult to resist pressure to proceed unilaterally. An agreement on the deep seabed can turn the world's interdependence from a slogan into a reality. A sense of community which nations have striven to achieve on land for centuries could be realized in a regime for the oceans.

CONCLUSION

Ladies and Gentlemen: The nations of the world now have before them a rare, if not unique, opportunity. If we can look beyond the pressures and the politics of today to envision the requirements of a better tomorrow, then we can understand the true meaning of the task before us.

Let us pause to realize what this Treaty can mean—to this generation and to the possible realization of humanity's dream of a progressive ascent toward justice and a good life for all peoples.

If the Conference is successful, mankind's rights and responsibilities with regard to the oceans will be clear to all.

This will mean freedom of navigation, preserving the rights of all on the seas.

It will mean a greater flourishing of trade and commerce, bringing the benefits of a freer flow of goods to consumers and producers alike.

It will mean that the oceans, recognized as "the source of all" since Homer's day, can continue to enrich and support our planet's environment.

It will mean that there will be a comprehensive regime for all of the world's oceans embracing not only territorial waters but a new economic zone, the continental margin and the deep seabeds.

It will mean the realization of the promise of scientific research in the oceans—the further probing of the mysteries of our planet to better the lives and preserve the health of all.

It will mean that the seas' resources of nutrition and raw materials can be trapped for the use of the entire human community.

It will means that an arena of conflict, and one which is becoming increasingly dangerous, will become an area for cooperative progress.

It will mean that the entire international community—the developing as well as developed, landlocked as well as coastal—will share in the uses, the nourishment, the material resources and the revenues which this great Treaty could provide. For the poorer countries in particular, it will mean revenues from the continental margin and the deep seabeds, and the opportunity to participate in deep sea mining through an international organization.

And above all, it will mean the nations of the world have proved that the challenges of the future can be solved cooperatively; that, for the first time mankind has been able to surmount traditional enmities and ambitions in the service of a better vision.

These then, are the stakes; these are the possibilities we hold in our grasp. Will we have the maturity and the judgment to go forward? Will we fulfill the obligation which future historians—without question—will assign to us? I believe we shall. The United States is determined that we shall. The possibility and the promise have never been more clear. Through reason, through responsibility, and by working together we shall succeed.

With hindsight it is easy to identify the moments in history when humanity broke from old ways and moved in new directions. *But for those living through such times, it* is usually difficult to see the true significance even of epoch-making events.

That is why the nations who are engaged in the Law of the Sea Conference have come to a unique moment in history. Only rarely does mankind comprehend the significance of change in the world as we so clearly do today. We share a common perception:

Of the need to contain potential conflict;

Of the importance of cooperative solutions to shared problems; and

Of the necessity to achieve the full and fair use of the possibilities of our planet, both material and moral.

If a second session is necessary this year to complete the work of the Conference, let us make that session the final one. To underline the importance the President attaches to these negotiations he has asked me to lead the United States delegation to that session. It is our hope that other nations will attach similarly high importance to it and be prepared to discuss the remaining issues before us at a decisive political level. This should be a time for determined action—a time to avoid rhetoric and to commit ourselves to decisions and a final agreement.

The United States calls upon all nations deliberating this great Treaty to summon the sense of responsibility and urgency which history and this task demand of us. For our part, the United States pledges itself to work tirelessly to seize this rare chance for decisive progress on one of the great challenges of our time.

[From the New York Times, Jan. 3, 1976]

MAKING THE LAW OF THE SEA

(By Claiborne Pell)

WASHINGTON.—The world has so far little noted but, I hope, one day will long remember the third session of the third United Nations Conference on the Law of the Sea, which is to convene in New York on March 15, 1976, for eight weeks of negotiations aimed at producing a comprehensive agreement for the orderly use and management of the oceans and their resources.

This conference, involving some 140 nations and dealing with vital issues affecting more than two-thirds of the earth's surface, is in my view the most important multilateral negotiation since the San Francisco

Conference in 1945, which drew up the United Nations Charter.

For this conference bears the responsibility for determining whether conflict or cooperation shall characterize man's activities in the oceans. Yet the Law of the Sea Conference has not received the priority attention it deserves either from the Ford Administration or from the governments of the other participating countries.

The New York session will be critical, as it will concentrate on the most difficult issues, which were not resolved at the two previous sessions, in Caracas and Geneva. Considerable agreement was achieved at these previous sessions on issues relating to the breadth of the territorial sea, navigation, fisheries, continental-shelf resources and marine pollution. But significant differences persist regarding the regime governing the development of the resources of the deep seabed and, to a lesser degree, on scientific research and on the desires of landlocked and geographically disadvantaged states to participate in resources exploitation of the proposed 200-mile economic zone.

Having come this far, it is time for all parties to demonstrate that they genuinely believe a treaty is necessary and possible. Real bargaining and compromise must therefore be the hallmarks of the New York session. In order to promote such a development, the United States must exercise greater leadership. President Ford and Secretary of State Henry A. Kissinger must become more directly involved in the negotiating process—not necessarily in the conference deliberations themselves but in the course of their many meetings with the heads of government and foreign ministers of the participating governments.

More generally, the Administration must emphasize that a successful conference occupies a high position in this country's list of foreign policy priorities. The Administration has made an encouraging first step by appointing the able former chairman of the board of the International Business Machines Corporation, T. Vincent Learson, as our chief negotiator at the conference. Much remains to be done, however. Mr. Learson must be backed up by comparable leadership in the State Department.

In this connection, it is urgent to name a new Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs. It is shocking that this important post has been vacant for more than 80 percent of the time since it was first established in October 1973.

We must also be prepared to take new and imaginative substantive initiatives at the conference. For example, in the controversial area of deep-seabed mining, consideration should be given to proposing a 50–50 sharing of the profits of such operations with the developing nations. We might also propose the creation of an International Sea Guard to enforce certain provisions of a law-of-the-sea treaty.

Other nations also have a responsibility to help break the conference logjam. Some governments appear to be interested in delaying the negotiations either because their interests in the oceans are not yet clearly defined or because they expect to realize gains for their positions by using delaying tactics. Those nations should realize that deliberate delays can only work against their interests by encouraging the already strong sentiment in this country for unilateral action.

The Congress is already on the verge of enacting legislation to extend United States fisheries jurisdiction to 200 miles, a desirable move in view of the consensus achieved on this matter at the Law of the Sea Conference and the urgent need to save the many depleted stocks of fish off our coasts. Similar pressure is building up to enact a legislation on deep seabed mining, on which no consensus exists at the conference.

I do not believe, however, that American objectives would be served by issuing an ultimatum setting a deadline for the achievement of a treaty. Indeed, remarkable progress has been made so far. What is required, however, is a clear signal to the world from New York that disagreements are being resolved and that a comprehensive treaty is truly in sight. Without such a signal, the momentum of the conference will be lost and the prospects for success dangerously diminished.

FUNCTIONAL ILLITERACY

Mr. PERCY. Mr. President, it is distressing that children and young adults are graduating from our elementary schools without adequate reading and writing proficiency. Many are functionally illiterate. This is particularly distressing in view of the fact that we as a nation are expending increasingly greater amounts for education.

No one seems to have a sure cure for this sad state of affairs. The Reverend Jesse Jackson's new "Push for Excellence," in Chicago, Washington, and Los Angeles high schools may well be a step in the direction of solving the problem of growing illiteracy rates among our young people.

I ask unanimous consent that an article on Reverend Jackson's efforts from the March 24 edition of the Chicago Tribune be printed in the RECORD.

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

A BIG PUSH BY JACKSON FOR DISCIPLINE IN SCHOOL

(By Casey Banas)

Here's a statistic to startle one:

In 10 years, the Board of Education's annual budget has skyrocketed from $388 million to $1.163 billion.

Granted that inflation caused a large part of the increase. But not all. Yet we are not exactly deluged with testimonials that more money has resulted in a better product being turned out.

So what's needed to elevate student achievement?

It is not more money. It is not higher salaries for teachers. It is not snazzy new instructional materials. It is not fancy schools.

It is, I submit, a new spirit—a spirit in which an entire city believes that its children, of all races, can learn effectively, and focuses its efforts in a united front to achieve that goal.

Guess who's going from neighborhood to neighborhood preaching that message?

The Rev. Jesse Jackson.

He is saying, first and foremost, that parents must do their jobs and assume more responsibility for their children.

I have the impression that a lot of black students go to school believing it's cool to be baaaaaad. And they act accordingly.

The Rev. Mr. Jackson makes the point that a white person who dares to suggest black parents are failing in their responsibilities for their sons and daughters would be labeled a racist like me, for example, for the preceding paragraph.

But the Rev. Mr. Jackson can go—and is going—into school after school to call with fervor for a revival of discipline.

In his flamboyant oratorical style, the Rev. Mr. Jackson spellbinds his youthful audiences with catchy slogans such as "We must have hope in our brains, not dope in our veins," and "Girls, you must pay more attention to books that to your bosoms."

He wants students and parents alike to cast aside the "anti-study, anti-intellectual" atmosphere permeating the inner city. He urges blacks not to consider themselves any longer victims of a white-dominated society, but to accept responsibility of their own destinies.

The Rev. Mr. Jackson is crusading for a "push for excellence" program in Chicago, Los Angeles, and Washington high schools so parents and teachers can join forces in motivating the children.

These are elements in his program:

A city-wide council of students would provide leadership to support discipline and academic excellence, and fight against drugs, violence, and racism.

Educators, politicians, the press, and disc jockeys should join forces to institute a "citywide study hour" from 7 to 9 a.m. for all students.

All schools should have dress codes reflecting modesty and dignity.

Schools should hold convocations at least three times a year to emphasize and recognize academic excellence just as enthusiastically as athletics.

The mass media should give students awards for artistic, cultural, and academic excellence just as they have created all-city and all-state athletic teams.

The Rev. Mr. Jackson, I believe, is addressing himself to the real problems of urban education and is offering what might become pragmatic solutions, if his crusade catches fire.

But yet there is something disquieting about his efforts, Several people have whispered in my ear that the Rev. Mr. Jackson has seized upon the school issue in an effort to revive his sagging personal image and to gain a new infusion of financial support for his Operation PUSH.

He scoffs at this type of talk. He argues that his calling is to be a social activist and he is following in the footsteps of the late Dr. Martin Luther King Jr. by going where the issues are.

You can make your own judgment.

I hope my observers are dead wrong about his motives.

If only the Rev. Mr. Jackson, with his flair as a charismatic leader, can ignite the force to get all parents to motivate, discipline, and encourage their children to the value of education, he will make a supreme contribution to this city.

ALASTAIR BUCHAN

Mr. KENNEDY. Mr. President, when Alastair Buchan died last February, many Americans joined with his own countrymen in mourning his loss. This remarkable man, who was the first director of the Institute for Strategic Studies in London, had a deep impact on the way we view the world; he helped to shape central themes of U.S. foreign policy; and he was a good friend of this country.

On March 17, a number of Mr. Buchan's friends and colleagues gathered at the Washington Cathedral, for a memorial service in his honor. It was a fitting tribute to a man who had done so much in seeking rational answers to problems of power and peace in the nuclear age.

I consider it a privilege, therefore, to ask unanimous consent that the program for the memorial service, along with the

spoken tributes to Alastair Buchan, be printed in the RECORD.

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

A MEMORIAL SERVICE FOR ALASTAIR FRANCIS BUCHAN 1918–1976

Organ Prelude.

Opening Sentences.

The Twenty-Third Psalm and Lord's Prayer, Francis B. Sayre, Jr., Dean, Washington Cathedral.

An introduction, H. E. Sir Peter Ramsbotham, British Ambassador.

H. E. Jack Warren, Canadian Ambassador.

Mr. James Billington, Woodrow Wilson International Center for Scholars.

Hon. Charles Mathias, U.S. Senate.

Hon. Robert Ellsworth, Deputy Secretary of Defense.

Mr. Joseph Johnson, Former President, Carnegie Endowment for International Peace.

Closing prayers, The Dean.

Organ Postlude.

The people depart to the tolling of the Bourdon Bell.

Altar flowers are given in memory of Alastair Buchan by the Woodrow Wilson Center for International Studies.

REMARKS BY THE HONORABLE SIR PETER RAMSBOTHAM, KCMG, AMBASSADOR OF GREAT BRITAIN, AT THE MEMORIAL SERVICE FOR PROF. ALASTAIR BUCHAN, CBE

It seems altogether natural that we, who who were friends of Alastair Buchan, should gather together in this quiet moment in the Bethlehem Chapel, to share our sorrow and our loss in his early death, and to do him honour.

And yet I suppose it is unusual to be holding this service in the Cathedral of the Nation's Capital, to the memory of one who was neither a citizen nor a resident of the United States, nor a representative of his country, nor indeed the holder of any public office or political position.

He did not need to be any of these things. His reputation and influence had earned for him an international dimension. He was probably as well known this side of the Atlantic as in Europe. Essentially, he was a "bridge builder" and a synthesiser—he applied his remarkable imagination and power of analysis to bringing to light the intricate relationships between the various disciplines—history, economics, politics and science; and, in particular, between the subtle play of social and political forces and the hard, irreducible facts of military power in a nuclear age. No countryman of mine has contributed more to the understanding of international politics and the strategic implications of nuclear power in the latter half of the twentieth century.

Whether in conversation or in his writings, one experienced the keenness and ingenuity of his mind. In a world of increasing specialisation amongst scholars, Alastair Buchan, through his historical vision and breadth of knowledge, was able to illuminate the whole without lapsing into the eclectic—to draw the threads together while preserving the depth of scholarship.

He was a man of great tenderness and compassion. But his rugged exterior and brusqueness of manner were also the hallmark of a burning integrity and sense of purpose. His total absence of guile, dissimulation and self-advertisement endeared him to us all. Whatever is the opposite of ingratiating, he was. Fearless, morally and physically, he was equally brave in overcoming his own physical handicaps. He never spared himself and drove others hard. But those of us who worked with him in the International Institute for Strategic Studies, will never forget the inspiration of his leadership. He commended loyalty in others and also, I think, invoked in them a sense of the need to protect him.

Many of us have visited the Buchans in their home at Brill near Oxford, and have seen something of the happy life Alastair led, with Hope and their children. This special memorial service, offered by his American friends and admirers, means a great deal to his family. I telephoned Hope some days ago to tell her what was planned, and I would like to read from her letter of reply:

"The news of the Memorial Service at the Cathedral on 17 March has touched us all beyond description. It has given all his family here—his mother, sister, brothers as well as myself and the children, such a feeling of solace. Our thoughts will be with you".

I, too, am grateful for this occasion to share the sorrow and feel the solace in mourning the loss of one of my oldest and dearest friends.

REMARKS BY H. E. JACK H. WARREN, AMBASSADOR OF CANADA

The unexpected loss of Alastair Buchan is heartfelt by Canadians, as well as by his fellow Britons and by Americans. For we pay homage to a man whose domain was global and whose contribution was international.

Alastair Buchan's Canadian roots date from the closing years of the tumultuous thirties—years of mounting tensions which made a lasting impression on the youngest son of Canada's well known Governor General, John Buchan, Lord Tweedsmuir.

When World War II broke out, Alastair joined the Canadian army, as did his brother John, and had a part in the dramatic raid against Dieppe in 1942. He rose to the rank of major during the campaign in northwest Europe. His wartime experience helped shape the broad insights so clearly evident in his later work as journalist, analyst and historian of international and strategic affairs.

Alastair married an Ottawa girl, Hope Gilmour; in time their family came to number three—a daughter and two sons. Their grief in the loss of this intelligent, sensitive human being, whose scepticism and fine sense of humour so enlivened those who had the privilege of knowing him, we share in part today.

Alastair Buchan not only served Canada well in arms, but throughout his career, and like his father, demonstrated in many ways his affection and concern for Canada and for Canadians. He was no stranger to the Canadian academic community; to which he made many well remembered contributions through his writings and as an incisive and penetrating participant in seminars and meetings throughout the land. We were fortunate that, following his notable years as founder and director of the Institute of Strategic Studies, Alastair, in 1969, accepted the visiting Professorship in International Relations at Carleton University in Ottawa. He was a perceptive, if kindly, critic of Canadian affairs.

Alastair's recent appointments—at the Imperial Defence College (where many Canadians were influenced by his leadership), at Oxford University, and at the Woodrow Wilson International Center for Scholars—testify to the esteem in which he was held by his peers and to the quality of his scholarship. A close friend of Lester Pearson, Alastair enjoyed a notable rapport with statesmen, political leaders, and key intellectuals throughout the world.

As an aunt said of his father, it seemed as if the Buchans had ink rather than blood in their veins. If so, it was of the finest quality. Whereas his father was best known for his historical biographies and novels, Alastair normally preferred a more contemporary perspective; an exception was his fine 1959 work "The Spare Chancellor: The Life of Walter Bagehot." Buchan's other writings—particularly "NATO In The 60's," "War and Modern Society," "Power and Equilibrium In The 1970's"—reflected his deep and thoughtful wisdom, and foreshadowed a detailed analysis of post-war diplomacy which sadly remains unfinished.

We have lost a treasured friend and the world a distinguished and creative citizen. Canada, Britain, the United States, in particular, mourn the death of this compassionate and honourable gentleman.

REMARKS BY JAMES H. BILLINGTON, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

We at the Woodrow Wilson Center were the last of the many groups of American friends of this unique son of Britain and soldier of Canada. Many Americans both here and unable to attend today will pay him deeper tributes based on longer knowledge than can we or perhaps others who make speeches today. But we remember him vividly arriving almost self-effacingly a near perfect personification of the ideal prescribed by Congress for this presidential memorial—a scholar bridging the world of affairs and the world of ideas.

Perhaps because he came late to scholarship, he brought special gifts with him—a mature understanding of a complex world, the grace in writing of a gifted journalist, the concentration on important issues of a statesman without portfolio, and a gentle determination to put things together rather than merely take them apart. He had made fascinating discoveries (like the Indian origins of the domino theory), his study of our past quietly imported a fresh feeling of hope about the future among his colleagues—and of expectation about his forthcoming return to the Center. For he had embarked on what would have been a monumental history of post-war American foreign policy. His last communication to us arrived just two days after his tragic death—and makes this setting all the more appropriate for his memorial. His letter discussed enthusiastically a conference of Europeans and Americans advocated by a British church leader to discuss the enduring values of liberal democratic society.

None of these projects can be quite the same without him—his warmth and wisdom, his freedom from pretense and psychodrama. We grieve for his fine family. We give thanks for having had the privilege of knowing one who not only enriched civilization, but embodied it.

REMARKS BY SENATOR CHARLES MCC. MATHIAS, JR.

One of the differences between private life in a setiled community and almost any form of public life—diplomacy, journalism, politics and other abberations—is the way we meet and keep friends. Private people can make friends in childhood who often remain as the daily companions of old age. But those who lead more hectic lives have to develop a different kind of friendship, different ways of communicating directly and openly with people who, although they move in and out of our lives physically, actually become a permanent and lasting part of life for us. This requires a special reaching out, a quality of giving and receiving, a desire to exchange thoughts and feelings and experiences in order to distill a chance meeting into a genuine and continuing friendship. Alastair Buchan made this process easy.

While his friends will remember this quality, his admirers, who did not know him, will remember his devotion to reality, to fact. As a journalist, at the Institute for Strategic Studies, and as a teacher he constantly sought to keep the record straight and to make the world stick to the record. I believe that Alastair Buchan, as an observer of the causes of conflict among nations, knew the danger of fantasy, the persistence of myth

and the insidious power of legend. The only effective weapon against all these is fact—the unvarnished truth whether palatable or otherwise. The resolution of differences within the Atlantic community, the composition of controversies with the Soviet Union, the abatement of nuclear danger and the deceleration of the arms race—all these compelling goals require that we face reality. Alistair Buchan knew this and he tried to persuade us to do so by making it easier for us through his own work. This is a very great contribution and a lesson and example worth remembering a long time.

REMARKS BY HON. ROBERT ELLSWORTH, DEPUTY SECRETARY OF DEFENSE

It is good that this memorial gathering of some of Alastair's friends takes place in the solemn and beautiful setting of this Cathedral. I never had thought of Alastair as a church-going man, though in important ways, and in his own ways, he surely was engaged in God's work.

One is reminded of an exchange between the Archbishop of Canterbury and Cardinal Hensley in London a little over a century ago. As they came out of a meeting together, the Archbishop offered the Cardinal a ride in his carriage. "After all" said the Archbishop, "both of us are engaged in God's work." "Yes," replied the Cardinal, "you in your way, and I in His."

Alastair did his work, or His work, in different ways. He was a gallant soldier. He was a brilliant journalist. He was a scholar. He was an author. And he was a founder and the first Director of the Institute for Strategic Studies. I knew him best through his work in and with the Institute and I think of his life mainly in terms of his enormously successful efforts to illuminate the deep and complex issues which arise from man's possession of nuclear weapons. These are problems with which mankind will have to deal: not just through the next crisis, or the next two or three crises—or for the next 100 years, or 1,000 years—but forever. And I believe Alastair felt that this strand of his life was particularly important.

But Alastair's life, like any man's life, was like a piece of tapestry. It was made up of many strands, which, interwoven, made a pattern. To separate any one strand, or even several strands, and look at them alone, not only destroys the whole, but gives the strand itself a false value. Each one of us knew Alastair in a different way; each one of us saw the pattern of the tapestry of his life somewhat differently. Each one of us can reflect to himself or herself on that pattern and remember it for its overall beauty, and strength, and coherence.

Alastair died too young; we all know that; that is a large part of our sorrow today. Seneca reminds us, however, that it is within no man's power to live long. But it is within the reach of every man to live nobly. We can all agree that Alastair lived nobly, that his life was a noble tapestry.

When the hero in "Pilgrim's Progress" was summoned across the river after death, he paused at its edge to declare his last will and testament, in phrases that could well have been Alastair's to us who knew him:

"My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me to be a witness for me, that I have fought His battles who now will be my Rewarder."

REMARKS BY JOSEPH E. JOHNSON, FORMER PRESIDENT, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

Each of us by the very fact of being here this afternoon is bound to be recalling his own associations with Alastair Buchan. All we who speak can do is to try to share with you some of your vignettes of Alastair and our thoughts about him, and to hope that we may touch your recollections and thereby strengthen and deepen the sense that each individual has of an exceptional man—a man who was warm, responsive, civilized, and to whom one who knew him well attributed "touches of genius and of prophetic insight."

I knew Alastair only during the last seventeen years of his life. I had never met him, nor even heard of him, before I learned of his appointment in 1958 as the first Director of the Institute for Strategic Studies. I had followed the steps leading to the establishment of the Institute from early 1957, as an interested but somewhat distant observer.

From 1958 on we saw each other on an average of two or three times a year. We corresponded frequently, we collaborated in organizing conferences and developing research projects, we visited each other, and we once shared an adventure—or rather a mild but frustrating misadventure—in a fruitless search for trout in the foothills of the Canadian Rockies.

As our friendship grew certain qualities of Alastair's stood out. For me they were vision, imagination, dependability, integrity, courage, and a readiness to dare the untried. Time does not permit me to illustrate each of these and in any case you will think of your own examples. But I do want to say a word about his daring—his adventurousness: three times in fifteen years he dared to take on new and quite different jobs, difficult jobs, and he succeeded each time—as Director of the Institute for Strategic Studies, as head of the Royal College of Defense Studies, and as Montague Burton Professor of International Relations at Oxford.

The qualities I have cited, and others besides, melded to make Alastair Buchan an inventor, a true innovator. Chalmers Roberts has called the ISS his monument, and he was right to say that. But only when I think about the combination of characteristics needed to build that monument do I begin to understand what an accomplishment it was: imagination, a fertile brain, constructive thought, the capacity to expound ideas clearly and forcefully, select the men, and finding the money, to build an institution that could go on, and has gone on, with a life of its own—that I suggest is evidence of truly remarkable creativity.

I believe the world at large will for many years be the better for the sanity and wisdom that Alastair manifested in all his professional activities, modestly, but with a forcefulness that thoughtful and responsible men could not ignore.

One not unimportant segment of the world's inhabitants has special reason to be grateful to him. Alastair Buchan had a just appreciation of the predominant role the United States has been called upon to play; he knew our country well and understood it as few foreigners have done, and he was a friend. He did not hesitate to speak well of us or to speak frankly to us when he felt the occasion warranted, and to do so without arrogance or condescension. In short, he was a true friend to the United States as well as to those of its citizens who know him, admired him, loved him, and will miss him.

JOSEPH'S COAT MADE OF TWEED

(For Alastair Buchan 1976, by Francis B. Sayre, Jr.)

Bless'd, Lord, be Thy weavers:
Weavers of friendship in the fabric of peace;
Spinning from their soul threads
of insight and allowance;

Humble at the loom of love—
warp of caring
weft of understanding—
Until the coat is made of many colors:
Which is God's glory upon the peoples of earth.

We thank Thee, Father, for one such artisan,
Alastair Thy servant,
Watcher and weaver sure
Of the strands of the spirit that together are fashioned into the mantle of mankind.

Let now the rainbow be upon him,
Which Thou didst set forever to be the emblem of Thy grace.

Amen.

WHAT HAS HAPPENED TO OUR WILL TO RESIST?

Mr. THURMOND. Mr. President, I have just read an excellent article by the National Commander of the American Legion, Harry G. Wiles, on the need to maintain a strong defense capability.

It is a clear and convincing statement which merits the in-depth study of every Member of Congress. Commander Wiles focuses on our defense posture and the will of our people.

Mr. President, Harry G. Wiles is a patriot of the highest order who understands what it means to sacrifice for our country. I hope the Congress will heed the warning Commander Wiles has given us in our Nation's interest.

Mr. President, in order to share this important article with my colleagues, 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:

WHAT HAS HAPPENED TO OUR WILL TO RESIST?

(By Harry G. Wiles)

A year has now passed since the Communist victory in Indochina.

For the United States it has been a year of shattered confidence, recrimination and retreat.

For the first time since World War II Americans are questioning the nation's capabilities.

Even Secretary of State Kissinger admits that the "detente" with Russia that he has so carefully nurtured and the strategic arms limitation talks (SALT) are in trouble. For the first time in 35 years Moscow can speculate on the American will to resist.

Congressional and public weariness with short-of-victory policies in Vietnam ultimately led to the cutoff of military aid and the collapse of Indochina. Congress then refused to try to thwart a Communist victory in Angola. The intensity of its investigations of intelligence operations and the almost masochistic determination to wash in public every delicate detail involving friendly or neutral governments indicates that the retreat toward isolationism is continuing.

Where does it end? How deeply is it rooted in the post-Vietnam American conscience? How will our allies react? After Angola what new opportunities will tempt our enemies?

For Russia, opportunity could beckon in the Mediterranean, southern Europe, Asia, Africa or even Latin America. The blatant use of Cuban troops in Angola has sounded alarms from Rhodesia to Panama.

More ominous is the parallel Soviet strategic arms buildup, because that is aimed directly at the United States and the North Atlantic Treaty Organization. Virtually every reliable international military estimate gives the Soviets superiority over the United States in nuclear missiles, naval strength and armor.

What is only now coming to light is the

intensity of the Soviet buildup during a period of supposed reconciliation. CIA estimates made public in late winter suggest Moscow is devoting 15–20 per cent of its gross national product to military purposes. It was previously estimated that only six-eight per cent went for arms.

Defense Secretary Rumsfeld says Soviet spending has been increasing steadily for ten years. Between 1965 and 1975, the Russians increased their military manpower from 3.4 million to 4.4 million, Rumsfeld said; their intercontinental ballistic missiles increased from 224 to 1,600; their sea-launched ballistic missiles from 29 to 700; their strategic warheads and nuclear bombs from 450 to 2,000. "The momentum from this buildup shows no signs of checking," he added.

During the same decade, U.S. military manpower dropped from 3.4 million to 2.1 million, its missile force remained static and its bomber fleet declined from 1,600 to 384.

Maj. Gen. George J. Keegan Jr., assistant Air Force chief of staff for intelligence, raises another dimension: Is the U.S. deterrent still credible?

"The Soviet Union has expended on the order of $20 billion to $25 billion in the last few years on hardening military command posts from the Politburo to the lowest ICBM site," Keegan said.

His unusually candid public appraisal went on to describe continuing Russian dispersal of industry into underground factories—some of which contain 10 billion square feet of space; and a matching civil defense program based on the emergency dispersal of its population. The United States simply has no comparable program.

Confronted with this, Kissinger has said it may be necessary to once again "contain" the Soviets, if SALT and other efforts fail. The price would be staggering; 1976 is not 1952.

Since Vietnam, inflation has sliced an estimated ten per cent from the U.S. defense budget and Congress has trimmed another seven per cent. More than 50 percent of that budget now goes for pay and benefits that military men have earned and must be honored. Precious little is left for new weapons.

The latest defense budget calls for $112.7 billion, an increase of $14.5 billion. But an estimated half of the increase would be sacrified to inflation and the other half could go, too, if an anti-Pentagon Congress should kill the B–1 bomber program and delay the cruise missile, two new weapons systems that might begin to balance the nuclear scales.

Winston Spencer Churchill, a young British MP, calls the world scene "a disaster synonymous with appeasement."

In words reminiscent of his famous grandfather, Churchill told the House of Commons "the sinister forces of totalitarianism are again on the march while the democcracies are wandering without aim. . . . Men acting from a variety of motives are helping actively the Soviet Union in its imperialistic desires."

Perhaps thus far Congress has accurately reflected the majority view of post-Vietnam America. So long as the Soviets nibble at far-off places like Angola, Indochina memories will intrude in any American debate.

But each new Soviet foothold, each American retreat escalates the ultimate cost of stopping Moscow's ambitions. History teaches that great nations eventually pay the price or surrender their greatness. In this election year voters and candidates must ponder that lesson.

COL. JOHN AMASA MAY

Mr. THURMOND. Mr. President, it is with deep sadness that I bid farewell to my close and personal friend, Col. John Amasa May of Aiken, S.C., who died on March 9, 1976. However, along with my sorrow I believe there is a need and desire to express my appreciation for the many years of his life he devoted to the State of South Carolina and this Nation.

Colonel May was one of the most colorful figures who lived in Aiken County. He was born in the small community of Graniteville and spent most of his life at his nearby country estate, "Mayfields." After graduation from Wofford College in Spartanburg, S.C., he studied law at the Harvard School of Law and the University of South Carolina where he received his degree in 1934.

Mr. President, Colonel May was a man of many fine qualities and outstanding achievements. He was a patriot and soldier who loved his country and zealously supported and defended it and its interests. He was an infantry officer during World War II and afterward became a Chief Prosecutor at the Nuremburg War Crimes Trials. Upon returning to civilian life, Colonel May began the practice of law in his hometown of Aiken, S.C., and during his practice, he became noted nationally as a historian, particularly for his work in the field of Confederate history. Such was his love of history that his estate, "Mayfields," has been transformed into an indoor-outdoor musuem, with one of the largest private collections of American and Indian relics and historical documents in the South.

Mr. President, Colonel May's contribution as a lawyer and historian speak for themselves, but they are by no means his only efforts in community and State progress. After serving as a member of the State House of Representatives from Aiken County, he was appointed to the position of liaison between the Bureau of Outdoor Recreation and the South Carolina Department of Parks, Recreation and Tourism. Under his ardent and professional leadership, more than 500 projects throughout the State were initiated and funded.

Colonel May was active in all facets of civic activities at both the State and National level. In 1967, he was appointed to the National Advisory Council on Historic Preservation. He participated in the South Carolina Confederate War Centennial Commission and the Confederate War Centennial Conference. Colonel May was also past South Carolina department commander of the American Legion, national commander-in-chief of the Sons of Confederate Veterans and past commander-in-chief of the Order of Stars and Bars.

Colonel John May was a devoted and dedicated family man who believed in a strong and close family relationship. He is survived by his sister, Mrs. Victor W. Dilgard, Dayton, Ohio; and two grandsons, John Amasa Mayo, and Christopher P. Mayo, Ottawa, Canada.

Mr. President, numerous editorials and tributes have appeared in newspapers throughout South Carolina and Georgia noting the accomplishments and qualities of Col. John Amasa May. I ask unanimous consent that several of these articles be placed in the RECORD.

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

[From the Columbia, S.C., State, Mar. 13, 1976]

PRT OFFICIAL COL. JOHN MAY IS FOUND DEAD IN APARTMENT

AIKEN.—Col. John A. May, 67, director of the Bureau of Outdoor Recreation with the S.C. Department of Parks, Recreation and Tourism (PRT) and a former member of the S.C. House, was found dead in his Columbia apartment Friday. His death was apparently due to natural causes.

Born in Graniteville, he was a son of the late John A. Sr. and Martha Randall May. He received his A.B. from Wofford College in 1931 and studied law at Harvard Law School and the University of South Carolina, receiving his law degree from USC in 1934.

Col. May represented Aiken County for 18 years in the S.C. House In 1966 he was appointed to the PRT post by Gov. Robert E. McNair. He was re-appointed to the position by Gov. John C. West and Gov. James B. Edwards.

At PRT he also was state liaison officer for the Bureau of Outdoor Recreation's funding programs. Under his leadership, more than 500 projects throughout the state were funded.

Col. May had planned to retire in June after 10 years of service. He was scheduled to host the next PRT Commission meeting on March 26 at his Aiken estate, "Mayfields." During the meeting he was to be honored for outstanding service to PRT especially for the funding program.

In 1967, President Lyndon B. Johnson appointed Col. May to the National Advisory Council on Historic Preservation. He was re-appointed in 1973 by President Richard M. Nixon.

In 1960, Col May retired as a practicing attorney, to devote full-time to the S.C. Confederate War Centennial. He served as chairman and director of the project without pay. He also served as vice chairman and then for two years as chairman of the Southern States Centennial Commission.

May, a veteran officer of World War II, participated in the Nazi war crimes trials after the war. During the war he was awarded the Bronze Star.

He was a member of the Knights of Pythias, Woodmen of the World, D. of A., Masons, Knights of Templar, Eastern Star, Omar Temple of Shrine, Elks, 40 & 8 and V.F.W. He was South Carolina department commander of the American Legion in 1955–56, national commander-in-chief of the Sons of Confederate Veterans and past commander-in-chief of the Order of Stars and Bars.

He was a member of St. John's United Methodist Church in Aiken.

Surviving are a sister, Mrs. Victor W. Dilgard of Dayton, Ohio, and two grandsons.

Plans will be announced by George Funeral Home of Aiken.

[From the Augusta, Ga., Chronicle, Mar. 13, 1976]

COL. JOHN A. MAY, HISTORIAN DIES

AIKEN.—Col. John A. May of Aiken and Columbia, state liaison officer for the U.S. Bureau of Outdoor Recreation and former state legislator, was found dead at his Columbia apartment Friday.

Col. May was nationally known as a historian, particularly in the field of the Confederacy, and he was one of 10 members of the National council of Historic Preservation at the time of his death. He had served eight years.

He was chairman of South Carolina's Confederate War Centennial Commission 1959–1965 and also chairman of the Confederate War Centennial Conference, which included all Southern states. He received the Award of Distinction from the National Civil War Centennial Commission.

An attorney and a veteran of World War

II, Col. May was one of the chief prosecutors during the Nuremburg Crimes Trials. Later he was state commander of the American Legion and national commander of the Sons of Confederate Veterans.

He served as House member from Aiken County for 18 years until his appointment by Gov. Robert McNair to the position of supervising the use of federal funds from the Bureau of Outdoor Recreation on state projects. More than 500 such projects were initiated under his leadership.

Born in Graniteville, S.C., Col. May had long made his home in Aiken. His 90-acre estate "Mayfields" north of Aiken was transformed over the year into an indoor-outdoor museum, with one of the largest private collections of American and Indian relics and historical documents in the South.

He is survived by one sister, Mrs. Victor W. Dilgard, Dayton, Ohio, and two grandsons, John Amasa Mayo and Christopher P. Mayo, Ottawa, Canada.

[From the Aiken, S.C., Standard, Mar. 15, 1976]

COLONEL MAY DIES; FUNERAL TODAY

One of South Carolina's favorite native sons, Col. John Amasa May, died in his Columbia apartment Tuesday. His body was not discovered until Friday.

Col. May, born in Graniteville in 1908, was a graduate of Wofford College. He attended Harvard Law School and graduated from the law school at the University of South Carolina.

Col. May practiced law in Aiken for several years and was a member of the S.C. House of Representatives for fifteen years.

He served five years in the U.S. Army during World War II and was awarded the bronze star. Upon being discharged from the Army, Col. May was named military secretary to the governor and prosecuting attorney of the major German war crimes trials. In 1967 he was appointed state liaison officer for the Bureau of Outdoor Recreation and Director of the B.O.R. by Gov. Robert G. McNair.

Recently, Gov. Edwards was presented a national award from the Secretary of the Interior for the outstanding accomplishments of B.O.R. in South Carolina.

Col. May was also appointed successively by three U.S. presidents to the Presidents Advisory Council on Historic Preservation.

A meeting of the S.C. Parks, Recreation and Tourism had been scheduled to be held at Mayfields later this month to honor Col. May for his outstanding service to South Carolina.

Col. May was a member of Aiken Lodge 156, Omar Temple of the Shrine, lifelong member of St. John's Methodist Church, charter member of the Aiken Lions Club and past district governor of the Lions; past president of Aiken Chamber of Commerce, member of Emily Geiger Council 32, Daughters of the America, past commander of S.C. Department of American Legion and several other civic and professional organizations.

Funeral services were to take place today at 4 p.m. at St. John's Methodist Church with the Revs. Robert E. James, Adlia C. Holler and Dr. F. S. James officiating. Burial will take place at his estate, Malfields.

Surviving are: one sister, Mrs. Victor W. Dilgard, Dayton, Ohio; two grandsons, John Amassa Mayo, and Christopher P. Mayo, both of Ottawa, Canada.

Pallbearers are Nathan M. Wolfe, Sr., O. W. Davis, James A. Hamilton, James G. Nunnery, J. E. Stewart, W. J. Bryan Dorn, John P. Gardner and Alex M. Geiger.

Friends may call at the George Funeral Home. Memorial contributions may be made to St. John's Methodist Church.

[From the Augusta, Ga., Chronicle, Mar. 16, 1976]

COL. JOHN A. MAY

In the death of Col. John A. May, South Carolina has lost a man who achieved eminence in several fields, and deservedly so.

Born in Graniteville and a long-time resident of Aiken, Colonel May was nationally known as a historian, particularly in the field of the Confederacy.

Colonel May was one of 10 members of the National Council of Historic Preservation. He was chairman of South Carolina's Confederate War Centennial Conference which included all States that once belonged to the Confederacy. His professionalism was recognized by the bestowal of many awards from historical organization, not the least of which was the coveted Award of Distinction from the National Civil War Centennial Commission.

An attorney and a veteran of the Second World War, the colonel was one of the chief American prosecutors during the post-war Nuremburg Trials. After his active service in the military, he served as commander of the Palmetto State's American Legion, and he once served a term as national commander of the Sons of Confederate Veterans.

Interest in and concern for good government spurred him to run as a state legislator from Aiken County. He served with distinction in the House for 18 years until his appointment by then-Gov. Robert McNair to the position of supervising the use of federal funds from the Bureau of Outdoor Recreation on state projects. More than 500 such projects were initiated under his guidance.

Colonel May earned for himself the affection and respect of the many who knew him as a patriot, friend, neighbor, Christian, and dedicated student of history. The Palmetto State is the poorer for Colonel May's loss, and we join with the many who grieve because of his passing.

[From the Aiken, S.C., Standard, Mar. 17, 1976]

COL. JOHN A. MAY

The death of Col. John A. May in Columbia last week removes from the scene one of the most colorful figures who has lived in Aiken County in recent times.

Col. May, a Graniteville native who served in the South Carolina House of Representatives for 15 years, spent most of his life in Aiken and at his nearby country estate, Mayfields. His father was a successful automobile dealer in Aiken, and an only brother, Eugene, was killed when the airplane he was piloting crashed into a residence near the family's home in downtown Aiken in the late 1930s.

A graduate of Wofford College, Col. May attended Harvard Law School and graduated from the University of South Carolina Law School.

He served in the Army for five years during World War II and later was one of the chief prosecutors at the Nuremburg Crimes Trials. Returning to civilian life, he was elected State commander of the American Legion and national commander of the Sons of Confederate Veterans.

He was deeply interested in history, and he had an extensive collection of American and Indian relics, as well as historical documents relating to Southern history.

He was one of 10 members of the National Council of Historic Preservation, having been appointed by three successive presidents. He served in the 1960s as chairman of South Carolina's Confederate War Centennial Commission and chairman of the Confederate War Centennial Conference of Southern states. During the Centennial observances, he was a familiar figure at public gatherings in his authentic Confederate uniform.

Col. May some months ago announced the gift of a tract of land to be used by St. John's Methodist Church for youth recreational activities. He was a charter member of the Aiken Lions Club and was a one-time president of the Chamber of Commerce.

In recent years Col. May had served as state liaison officer for the U.S. Bureau of Outdoor Recreation and was recently presented a national award for his accomplishments.

He had many friends throughout South Carolina and will be greatly missed.

[From the North Augusta, S.C., Star, Mar. 18, 1976]

COL. JOHN A. MAY

Two weeks ago Saturday, a tour of several state officials and local persons was conducted over the area known as Redcliff Plantation near Beech Island. The plantation was given to the State of South Carolina by the late John Shaw Billings.

Present at the event to contribute to the undersanding of the area was noted Southern historian and long-time Aiken Countian Colonel John A. May. He is pictured here as he spoke to the group about the historic cemetery on the grounds of the plantation.

Last week, Colonel May died.

Prior to his appoinment to positions relating to preserving the history of the state and nation, May was a member of the South Carolina House of Representatives from Aiken County. He served in this post for several years.

There are many words which may be used to describe a politician. The one most aptly befitting John May (and few others) would be "affable."

During those days, he would come into our office like clockwork every two years and say, "It's that time again," and ask for our vote. He would say, on leaving, "I won't bother you for two more years, but you know how to get in touch if you need me."

John was the personification of the unreconstructed rebel. He never did admit that the North had won the War Between the States and would even show you on maps how the Yankees could not have possibly won some of the battles that history books say they did.

John May was a remnant, a generation or two removed, of the Legions of Gray which fought for a lost cause in the days when causes were important.

It seems somehow fitting that one of his last visits to this area was to walk on the grounds of what is to remain a lasting tribute to that portion of a way of life that has passed into the past.

EXPLANATION OF VOTE

Mr. STENNIS. Mr. President, during the consideration of S. 287, the omnibus district judgeship bill, the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) offered amendment number 946 which provided, in effect, that State courts would have jurisdiction to hear and decide cases or controversies involving the public schools. I was strongly in favor of this amendment and have consistently supported such proposals in the past.

Therefore, I was very much surprised to learn that on the rollcall vote—No. 110, legislative, page 9039 of the RECORD—I was recorded as voting in favor of the motion to table this amendment which was made by the distinguished

Senator from North Dakota (Mr. BURDICK).

While I am unable to fully explain this mix-up, I do want the RECORD to show at this point that I was in favor of the amendment proposed by the Senator from Virginia; on such vote it must have been my impression at the time that the vote was direct and that I was voting for the amendment as I had done previously when similar amendments were voted on.

CONCLUSION OF MORNING BUSINESS

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

NATIONAL FOOD STAMP REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 3136, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3136) to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The pending question is on the motion by the Senator from Kansas (Mr. DOLE) to waive section 401(b) of the Congressional Impoundment Control Act with regard to the consideration of this bill.

Time for debate on this motion is limited to 1 hour, to be equally divided and controlled by the Senator from Kansas (Mr. DOLE) and the Senator from Alabama (Mr. ALLEN), with a vote thereon to occur at 2 p.m.

Mr. DOLE. Mr. President, the Senator from Alabama (Mr. ALLEN) contends that the motion of the Senator from Kansas is a "budget-busting" motion—designed to evade the new budget control process. Nothing could be farther from the truth. Section 904(b) of Public Law 93-344, the Budget Act, provides specific authority for waiving or suspending any provision of title III or IV of the act upon a majority vote of the Senate.

Therefore, the pending motion of the Senator from Kansas to waive section 401 (b) of the Budget Act is not only not counter to the provisions of the Budget Act—it is specifically provided for by that act.

The attempt of the Senator from Alabama to invoke the technical provisions of section 401(b) would thwart the efforts of the Senate to pass meaningful food stamp reform legislation this year. There has been unanimous agreement for months that the food stamp program is in need of reform. That is precisely what we hope to accomplish by the substitute amendment now pending before the Senate.

For any point of order which is lodged against the substitute of the Senator from Kansas would apply equally to any food stamp reform legislation, including the committee version of S. 3136.

More importantly, the second concurrent resolution on the budget for fiscal year 1976 specifically urged reform in the food stamp program. The Agriculture Committee, under the leadership of the Senator from Georgia (Mr. TALMADGE), has moved on that request. And now the Senator from Alabama proposes to delay action on meaningful food stamp reform through a technicality of the budget process.

The Senator from Alabama has accused the sponsors of substitute amendment No. 1571 of offering a "budget-buster." In fact, the efforts of the Senator from Alabama to delay meaningful food stamp reform legislation on a technicality of the Budget Act could well result in a true "budget-buster." For if the President's proposed regulations are declared invalid as a result of litigation—a highly likely prospect—failure to pass meaningful reform legislation would result in the continuation of current law. It is current law—not the substitute of the Senator from Kansas—which permits high income people to qualify for food stamps. It is current law—not the substitute—which has led to inflammatory advertisements of $16,000 a year families receiving food stamp assistance. It is current law—not the substitute—which enables middle-class college students to receive food stamp assistance. It is current law—not the substitute—which has led to countless administrative errors and literally millions of dollars of wasted taxpayers' funds. And it is current law—not the substitute—which will lead to more wasted taxpayers' dollars in the future.

Far from being a "budget-buster," the substitute amendment will result in a balanced reform of the program. It will cut off high-income families from food stamp participation. It will eliminate non-needy college students. It will greatly reduce administrative complexity and thus save hundreds of millions of dollars. It is, by any standard, an eminently fair compromise which will cut out the abusers while providing assistance to our impoverished citizens.

If the Senate is interested in busting the budget, it should thwart meaningful food stamp reform by opposing the motion to suspend section 401(b) of the Budget Act. If the Senate wishes to go on record in favor of meaningful, balanced reform of the food stamp program, it should overwhelmingly approve the motion to suspend section 410(b).

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

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ALLEN. Mr. President, I yield myself 5 minutes.

Mr. President, the issue presented here is whether we shall accept the committee bill which actually affords no reduction in cost, according to revised figures from the Department of Agriculture, or whether we will take the entire ceiling off and allow the consideration of the Dole-McGovern substitute which adds, by their own admission, $389 million to the cost of the committee bill.

Mr. President, yesterday I furnished a letter from the Department of Agriculture, which, of course, has the management, supervision, and administration of the food stamp program, a letter from Dr. Richard Feltner, Assistant Secretary in direct charge of the program, in which he stated that far from accomplishing any reduction in the cost of the food stamp program the Dole-McGovern substitute would add $9.7 million to the cost of the program badly in need of reform and in reduction of the overall cost of the program.

I pointed out that that letter had a caveat in it, saying that $9.7 million was not the whole story, that the cost in all likelihood could be much more than that because they were reassessing the data that they had as to the cost of the program and the impact of the Dole-McGovern substitute.

I pointed out on yesterday that based on the committee report itself there was added cost in both the committee bill and the Dole-McGovern substitute of an additional $497 million.

That was my own calculation based on the fact that the Department in furnishing figures for the use of the committee felt like the average deduction from income of food stamp recipients amounted to $114 a month. So they were very glad to have the bill provide a standard deduction of $100 a month, feeling that they were accomplishing a saving there, but as will be seen from the second table on page 5 of the committee report actually the average deduction was only $77 per month, and one would think that a change in the deduction would not have the tremendous impact that it does, but on page 91 of the committee report it is pointed out that for each dollar of increase in the amount of the standard deduction it cost the taxpayers $21.5 million.

So, the difference between the standard deduction of $100 and the present average deduction of $77 would make a difference of $497 million added cost, not only for the committee bill, which would wipe out the entire savings of the committee bill, but it would also add that to the cost of the Dole-McGovern substitute, getting it up, according to my own figures, over half billion dollar extra cost.

The Department has confirmed my shorthand arithmetic computation with a letter this morning.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 8, 1976.

HON. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: In further explanation of the estimated cost of the proposed subtitute food stamp reform plan, I would

like to expand on my statement of yesterday concerning the Department's estimates. It may be true that using new data on itemized deductions will increase our cost estimates and reduce our savings estimates. If the only variable changed in our estimates were these itemized deductions the estimated costs could increase by approximately $400 to $500 million. However, other variables will be updated also, some of which may interact with the deductions to change this amount.

When the revision of our estimating model (which I mentioned in my letter yesterday) is completed, we will be able to provide a final estimate of the bill's impact.

Sincerely yours,

RICHARD L. FELTNER,
Assistant Secretary.

Mr. ALLEN. But I shall read from that letter.

In further explanation of the estimated cost of the proposed substitute—

And that is the Dole-McGovern substitute—

I would like to expand on my statement——

The PRESIDING OFFICER (Mr. MCINTYRE). The Senator's 5 minutes have expired.

Mr. ALLEN. I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for an additional 2 minutes.

Mr. ALLEN (continuing):

I would like to expand on my statement of yesterday concerning the Department's estimates. It may be true that using new data on itemized deductions will increase our cost estimates and reduce our savings estimates.

As I pointed out yesterday:

If the only variable changed in our estimates were these itemized deductions the estimated costs could increase by approximately $400 to $500 million.

This expressly confirms my calculations of yesterday.

So the Dole-McGovern plan, according to the letter of the Department of Agriculture, would cost the taxpayers, in this so-called reform effort, an additional amount of the $9.7 million of yesterday and the additional $400 million to $500 million, based on this difference in the calculations on the deduction. So the added cost, according to the Department of Agriculture, of the Dole-McGovern plan would be from $409.7 million to $509.7 million.

It is a budget buster. The Dole-McGovern plan is a budget buster. It busts the President's budget, because he has submitted a plan to the Agriculture Department that sets up and promulgates rules and regulations, and the cost of his plan is some $4.8 billion.

So make no mistake: The Dole-McGovern substitute adds tremendously to the cost of the present program. It is a budget buster. It busts the President's budget. It busts the President's program.

We are called upon to waive the law of the Congressional Budget Committee, the law of which we are all proud. But if we can come in here every time we wish and go beyond the budget and just make a simple motion to nullify the provisions of the budget, what good is a budgetary control law?

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

Mr. ALLEN. I yield myself 2 additional minutes.

So, Mr. President, the test is, are we going to abandon any effort to reform this program? If Senators want to abandon any effort to reform this program, they should vote to waive the provisions of the budgetary control law. Then they should vote for the Dole-McGovern substitute.

But this is a test vote. The vote that will occur at 2 o'clock will determine whether or not we really want to reform a program or whether we want to add tremendously to the cost.

If Senators want to add tremendously to the cost, they should vote for Senator Dole's motion to waive the provisions of the budget law and lift the ceiling. That would make a mockery of this whole reform effort, and we would end up with a veto of this bill. Then we will fall back on the President's plan, which does not have the $6.5 billion to $7 billion cost of the Dole-McGovern plan. It is $4.8 billion.

In the name of true reform and not reform in reverse, I urge that the Senate turn down the effort of the Senator from Kansas (Mr. DOLE) to waive the provisions of the budget law.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that Mary Sullivan and Herbert Jolovitz, of my staff, have the privilege of the floor during the proceedings this afternoon.

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

Mr. ALLEN. Mr. President, I yield 7 minutes to the distinguished Senator from Nebraska (Mr. CURTIS), and I will extend additional time if he needs it.

Mr. CURTIS. I thank the distinguished Senator from Alabama.

Mr. President, we are asked to waive the provisions of the recently enacted budget law. This law held out the hope to the country that, if followed, it would be of assistance in bringing us a balanced budget. All of us, in varying degrees, held that hope. We should let it work.

Just because some Senators in this Chamber want a great expansion of the food stamp program, they are urging that we disregard the budget law. Technically, they can do this, but I think it is a very unwise procedure. We should let sufficient time go by to see what good would come from adhering to the Congressional Budget Act.

This is offered in reference to a proposal to expand the food stamp program. The committee bill on food stamps created a great many loopholes. It fails to reduce the program to proper proportions. The substitute measure goes far beyond the committee bill.

Mr. President, we have a deficit this year of about $76 billion. If we are going to put that budget into balance, it is going to take something more than oratory. It is going to take something more than the elimination of waste, and waste should be eliminated everywhere we can. It will take something more than tax reform. The objective of tax reform should be to do justice, and often the only way that can be done is to relieve taxpayers of an unjust burden that is brought to light. Sometimes it does result in additional revenue; but, overall, it does not collect any additional revenue.

However, the fondest hopes that anybody could have for saving money by eliminating waste would be $2 billion or $3 billion and a smaller amount from tax reform. We still would be left with a deficit of $70 billion.

The only way we can establish a balanced budget and the only way we can control Federal finances is to cut back on some of the programs that are going on. One of those programs is now before us—the food stamp program. It was started in 1964 at a cost of $30 million; today it is $6 billion.

The purpose of the food stamp program is very simple. It is to give some aid to people who are hungry and malnourished. I believe that we can meet the objective fully with expenditures not to exceed $4 billion, and I presented to the Senate a series of amendments that would have made that possible. Those amendments were rejected. That battle is over.

The committee bill goes far beyond what it should do in providing food stamps for people who have incomes beyond the poverty level.

The substitute offered is more reckless and dangerous than the committee bill. Furthermore, Mr. President, we have reason to question the impression given by their budget estimates. For instance, the cost of the substitute proposal is based upon fiscal year 1977, while some of their expansionist promotions in the substitute do not become law until the end of fiscal year 1977.

There are many places where this substitute fails to do justice, where it expands in a way that does not deal with poor people who are hungry or malnourished. For instance, the committee bill had a provision that the exclusion from assets for the purpose of determining eligibility in reference to personal property used in a trade or business be limited to $15,000. That is removed in the substitute. A farmer might have machinery or similar property worth $100,000. Yet, in the eyes of the authors of the substitute, that person would still be eligible for food stamps.

Mr. President, if we do all we could in dealing with the $76 billion deficit, if we do all we could in the way of eliminating waste and tax reform, we would still have a $70 billion deficit. If we are serious and if we are honest with our people back home, we have to approach the task of reducing the size of the Government. We should be reducing the food stamp program from its present $6 billion to $4 billion or below. I am thoroughly satisfied, based upon the knowledge we have of this bill and the proposals going beyond the poverty level, that $4 billion well used could take care of the people who are so poor that they are hungry and malnourished in this country. It was never intended as an income supplement.

it should not be used as an aid to education.

The idea of the Senate going on record in favor of taxing the people that never get to go to college to provide groceries, food, for those who choose to go to college, maybe all their lives! It is not difficult for a married student to qualify from the standpoint of assets or income, either one. Yet he is able-bodied, and the taxpayers are already providing him with a subsidized education; the taxpayers are already providing him, no doubt, with subsidized housing. With the availability of grants, loans, and scholarships, then the Senate hold that in addition to all that, we should give them food stamps. That is not a nutrition program, that is welfare stating.

The motion of the distinguished Senator from Kansas should be defeated.

Mr. ALLEN. I had hoped that the Senator from Kansas might use some time at this time, but since he is not here, I shall yield 7 minutes to the distinguished Senator from New York (Mr. BUCKLEY).

How much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 9 minutes remaining. After the Senator from New York has spoken for 7 minutes, there will be 2 minutes remaining.

Mr. BUCKLEY. Mr. President, given the time restraint, I shall use only 2 minutes, because I believe I can say what needs to be said at this point in less time.

Mr. DOLE. I shall be happy to yield to the Senator from New York an additional 2 or 3 minutes.

Mr. BUCKLEY. I appreciate that courtesy from the Senator from Kansas, especially since he made that gesture before he heard what I had to say.

Mr. DOLE. I already read it.

Mr. BUCKLEY. I believe that the proposed Dole-McGovern legislation is not a substitute food stamp reform bill, it is a substitute for food stamp reform. It betrays the expectation of the American people that Congress would really tighten up on the food stamp program, reduce its costs, and restrict its benefits to the needy. It is being called a compromise. It is not a compromise and, with all due respect to my friend from Kansas, it is really a capitulation. It flies in the face of both common sense and public opinion. It is a legislative affront to the American taxpayer.

It will not reduce the cost of the food stamp program; quite to the contrary. After a full year of the food stamp controversy and debate, the Senate has before it a bill that would appear to drastically increase that cost. I have estimates that total in the neighborhood of $1.4 billion above current expenditures, almost $1.5 billion. A few more reforms like this one will bring us to national bankruptcy.

The distinguished Senator from Alabama has read a letter from Assistant Secretary Feltner, which I believe places a tag of about $0.5 billion on some features of the substitute, but I point out that USDA has addressed itself to estimates in only 6 of the 18 areas that would be affected by the substitute proposal. Both the sponsors of this legislation and the Department of Agriculture have failed to estimate the cost impact of those other 12 provisions. If Congress approves this legislation without considering its true price tag, it will once again demonstrate to the American people the accuracy of the old piece of political folk wisdom: that no one's life or liberty or property is safe while the legislature is in session.

The specific matter before us, Mr. President, is whether or not we should invoke a provision in the budget control law to permit this legislation to be considered at this time. I believe it would be foolhardy for us to proceed. I believe that, quite clearly, we have no possible understanding of what its full impact will be on the budget. It seems to me that this, quite clearly, is the kind of legislation that ought to be sent back to the drawing board so that we can get revised figures and know precisely what it is we are about. If we, at this juncture, when we are still testing the budget process, merely exercise the right of the majority to set aside the protection written into the budget bill, then I believe we are endangering the whole viability of the one reform in the last decade or so that truly offers the opportunity for Congress to achieve some sort of control over the expenditures' going up.

Clearly, Congress has not come to grips, in my judgment, if it adopts this substitute, with the underlying problem with food stamps. What is it supposed to accomplish? Are we talking about nourishing the needy or are we utilizing this merely as a substitute device for income supplementation and doing it by a sort of shell game to disguise from the American people what is going on in a manner that is not only extremely costly but also is developing real anger on the part of some of our population, who see other people no worse off than they nevertheless taking advantage of the provisions of the food stamp program to utilize their tax dollars?

I am for food stamp reform. But this bill is a monumental step backward. I thank the Senator from Alabama for yielding me his time.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I have listened with interest to the distinguished Senator from Alabama and the distinguished Senator from New York. I certainly share their views in their efforts and hopes that we can reform the food stamp program.

I think the substitute, which we hope to get into after the 2 o'clock vote, does provide reform—maybe not as much as some would like, but it may depend, too, upon their definition of reform.

During the committee deliberations on this bill the Senator from Kansas pointed out time and time again that reform was a two-sided coin; that we should eliminate those who were not in need, we should eliminate every abuse we could but, at the same time, we should make it easier for those who were truly in need, the poor, the elderly, and the disabled, make it easier for them to participate.

So, on that basis, the Senator from South Dakota (Mr. MCGOVERN) and I discussed the proposal eliminating the purchase requirement. But in an effort to compromise on reform we have dropped that effort, and I do believe the substitute now pending provides reform.

Let me name just a few of the reforms that the substitute contains. Let me, first, disabuse any of those who think this bill is for those who may have more than adequate means.

The substitute eliminates all households with net incomes above the poverty level. I do not know how many in this body understand the poverty level, but it is not very high. We say, in effect, "You are not eligible for food stamps if you have a net income above the poverty level," not $7,000, not $8,000, not $16,000; it is adjusted around $5,500 for a family of 4.

The substitute eliminates all college students who are dependents or who could be claimed as dependents by their parents. We believe we have tightened up the student provision to avoid some of the abuses.

The substitute will save a great deal of money, millions and millions of dollars, in administration because of the standard deduction and uniform purchase requirement. Many of the abuses and much of the cost of administration have been because of maladministration. But it is a giant program with millions of participants, costing billions of dollars, and mistakes are made.

It was the understanding of the Senator from Kansas that everyone on the Senate Agriculture Committee had the same thing in mind, to tighten up the program, slow its growth, lop off those who should not be participants, and help those who should be.

The net result, according to estimates—and we have heard a lot about estimates, the very inflated estimate of the Senator from New York (Mr. BUCKLEY) and the less inflated estimate of the Senator from Alabama (Mr. ALLEN)—but according to estimates the substitute would remove about 1.2 million people from the program.

The substitute also improves vendor accountability, the so-called Helms amendment, in an effort to get at vendor fraud, to stop vendor fraud.

The substitute strengthens the work registration requirement. There are just countless reforms in the substitute as well as in the committee bill.

Now, Mr. President, I would like to discuss briefly the cost estimate gain. First, I think we must establish what we want. Do we want to destroy the food stamp program? There are some who do, and I do not say they are totally in error, unless we can bring some responsibility to the program.

I think very highly of the Senator from Alabama. I know of his dedication to fiscal responsibility, his concern about fiscal responsibility. Everyone in this Chamber respects his desire to search out the truth in the matter of cost estimates. I certainly believe that is highly commendable.

But I think we must recognize that there really is no truth in estimates. There is no truth in the estimate of the

CBO or the USDA or the Library of Congress or from whatever source because they are estimates, that is all they are and, as estimates do, they vary from month to month. They vary according to what assumptions are used and, of course, they change with new data.

The best that can be done is to use the most reliable official information at hand and consider it carefully, and this is exactly what was done in establishing the cost of the savings estimate for the committee's food stamp reform bill and the proposed substitute with the help, I might add, of the Congressional Budget Office and the Department of Agriculture. So it has not been something dreamed up by my staff or the Agriculture Committee staff. It has been done on an objective and technical basis.

Nonetheless, the distinguished Senator from Alabama has concluded that this is a budget-busting substitute. I assume today he has concluded the committee bill is also a budget-buster, and the Senator from New York has raised him one and doubled it. He says it is not going to cost x dollars; it is going to cost $1.5 billion more.

Well, these conclusions raise very important questions, and I feel they must be examined and must be rebutted so that we can get on with the consideration of the food stamp reform legislation.

I would like to reserve 10 minutes of my time and I wish the Chair would notify me when I had reached that point.

Let us examine the two major points raised by the distinguished gentleman from Alabama and show where he is mistaken because I believe it is important that the Senate have confidence in the cost savings estimate, and I underline and underscore and emphasize at every opportunity the word "estimate."

The most serious point raised by the distinguished Senator from Alabama is that the estimate of savings for the committee's food stamp reform bill is overstated to the tune of some $500 million—it is $0.5 billion.

In his judgment this overstatement, knocking the bill's savings from $630 million down to $130 million, is the result of having used mistaken information on what deductions are claimed under the existing food stamp program. He cites new data on deductions which indicate that deductions claimed in the month of September 1975 were on the average $77 a month. Because this $77 a month is some $23 less than the $100 "standard deduction" provided for in the committee bill, he then goes on to conclude that the committee bill's estimate of savings is overstated by some $500 million, which is 23 times $21.5 million cost for each dollar of difference.

Mr. President, I say, with all respect, the Senator from Alabama is mistaken, and let me point out why. First, if he is to open up the issue of revising official cost estimates on the floor of the Senate by asking us to consider new data on deductions, we must, to be consistent, open up the estimates to revision based on all new data that have come to light since the committee markup of its food stamp reform bill.

Just to give you a brief notion of what that means, I would like to point out that the information developed in the House Agriculture Committee's food stamp study indicates that the committee bill—and I am talking about the Senate committee bill—estimate of cost savings in switching to a retrospective accounting system is probably understated to the tune of $200 million to $300 million. I repeat, this is a finding made by the House Agriculture Committee's reference to the Senate committee's bill.

That change alone would wipe out over half the $500 million "overstatement" referred to by the distinguished Senator from Alabama.

Second, the $77 a month figure which the distinguished Senator from Alabama uses applies only to 1975 while the committee bill is not going to be implemented until 1977, and even the crudest methods of updating would give us average deductions in 1977 of almost $85 a month, and reduce the "overstatement" of savings to only a little over $300 million, just about equal to the amount which the House Agriculture Committee study shows our savings estimate to be "understated."

Third, the $77 a month figure which my distinguished colleague from Alabama used is based on raw and unanalyzed data from the Department of Agriculture Survey in what very well may be an unrepresentative month, September 1975.

We must remember that September 1975, was a month during which unemployment was near its peak and the unemployed food stamp recipient tends to have smaller than average deductions under the existing program, and September 1975, was not a representative month in that heating cost, highly critical deductible items, were lower, not nonexistent.

Both of these problems, using the $77 figure, were called to our attention in the letter to the Budget Office, in the letter submitted yesterday.

Finally, let me point out that the CBO estimate used for the committee bill savings foresaw the problem with deduction estimates and assumed an average deduction under the existing program of $100, not the more questionable figure of $114 a month used by the Department of Agriculture.

I must emphasize that this is one of the most important reasons the committee chose the CBO estimate as its official cost estimate, rather than the Department's figures.

I point out to the distinguished Senator from Alabama, all this only goes to show the real danger of attempting to shave the figures on the Senate floor.

We must go all over the estimates carefully put together by the Congressional Budget Office and not try to jack them up with last-minute floor revisions willy nilly.

The second major point brought up by the distinguished Senator from Alabama pertains to the cost of the proposed substitute as compared with the committee bill.

Here again, I believe he is mistaken in his claim that the substitute would actually add about $9 million to the cost of the existing program, again based on Department of Agriculture estimates.

Sometimes the Department of Agriculture is known not to be totally accurate.

Curiously enough, the department estimate of the committee bill is $20 million less than that prepared by the committee staff with the assistance of CBO. That is all to the good, but my distinguished colleague from Alabama compares this cost to the Department's estimate, the committee bill saving $359 million, rather than our estimate of $630 million, and coming up with the cost of the substitute of an added $9 million.

I believe this gives a highly unfair picture.

The Department's estimate of the committee bill, savings were projected because they were based on fiscal 1976, not the year of implementation, fiscal 1977, and because they assumed the high level deduction, $114 a month. A more proper comparison would be the committee bill, CBO estimated saving $630 million, and this would still give us a saving, rounded off, of over $200 million.

So, Mr. President, I suggest that we should not be led into the trap the very able Senator from Alabama has been preparing.

Mr. BUCKLEY. Will the Senator yield?

Mr. DOLE. Yes.

Mr. BUCKLEY. Do the estimates that the Senator from Kansas has for the added costs of the Dole-McGovern substitute include an estimate of the cost of raising standard deductions semiannually.

Mr. DOLE. They are for the first year because they are not raised until the first date—fiscal 1978.

Mr. BUCKLEY. Does that apply to the cost of raising the poverty index semiannually?

Mr. DOLE. Would the Senator repeat the question?

Mr. BUCKLEY. Does the Senator have an estimate for the cost of raising the poverty index semiannually?

Mr. DOLE. That would be a very minimal cost. It is not there, but I understand it would be very minimal.

Mr. BUCKLEY. I have a computation here that suggests it might amount to $100 million to $160 million. I do not consider that minimal.

Does the Senator's estimate include the cost of mandating use of the nonfarm poverty index across the country?

Mr. DOLE. That was assumed in the committee bill.

Mr. BUCKLEY. Was there an estimate reflected for the cost of that?

Mr. DOLE. There is no cost involved because it was assumed in the committee bill.

Mr. BUCKLEY. But did the savings calculated for the committee bill include a calculation of this particular item?

Mr. DOLE. Yes.

Mr. BUCKLEY. Does the Senator have a cost for the mandated issuance of ATP cards and for the unworkable, in my judgment, recoupment provisions, an estimate of what might be the result there?

Mr. DOLE. Cost estimate claims for mandated issuance of ATP cards, addi-

tional exclusions from income, deleting the prohibition on minors, and other changes in the law we have in the substitute, some of these provisions never had an estimate of cost savings and it is wrong to claim they have an additional cost, unless savings are also claimed for the committee bill.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that I may place in the RECORD an estimate of the cost attributed by the staff of the Republican Study Committee to the Dole-McGovern substitute.

I obviously have not had a chance to analyze this in detail, but I suggest we have some new factors that have been brought into play, that there is wide disagreement, apparently, as to what the actual impact of these figures will be.

I believe, frankly, it would be improvident for us to suspend the protections built into the Budget Act at this point.

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

REVISED ESTIMATES, COST OF COMMITTEE BILL AND DOLE-MCGOVERN SUBSTITUTE

	Million
Earlier reported savings, Committee bill, fiscal 1977	$630
These savings were based upon average deductions reported across the entire caseload of $114. The Department has since reported that average deductions across the entire caseload are $77 (page five, Committee print). That is a difference of $37. The Committee print also indicates that (page 91) a $25 difference in the standard deduction costs $567 million, or $23 per $1 increase. If the relationship is linear, that means the drop in average deductions is worth $851 million. This consists of both the higher benefits that will be paid when the deduction is set at $100 plus taxes vs. $77 including taxes *and* the higher number of eligibles	−851
Current cost of Committee bill	+220
Added costs of Dole-McGovern substitute:	
Costs of raising standard deduction semi-annually (if standard deduction increases 10%, it becomes $110. Page 91, Committee print, indicates cost of such a deduction is $215 million)	215
Costs of raising the poverty index semi-annually (assume poverty index increase of 10%; 6 month lead over present system=5%).	
One-time adjustment (average level in 1975 to March 1977 level), estimated from $5,500 $6,150, a 12% increase. Page 93, Committee print, says cost of a 25% increase in poverty index is $800 million. March 1977–June 1977=¼ of year	100
Ongoing advance lead, 5% vs. 25%	160
Costs of mandating use of nonfarm poverty index across country (nonfarm 17% higher than farm; assume use in 35% of country=6%. Six percent÷25%×$800 million)	200
Mandated instant issuance of ATP cards and unworkable recoupment provisions (assume Curtis amendment estimate of $50 million for strikers; 2 months earlier certification=$8.3 million; plus error rate of 17% overall, an additional $8.5 million)	17
New educational exclusions (assume Curtis amendment estimate of $90 million total student bonus value; assume 5% of bonus value represents VA scholarships and loans used for tuition)	5
Costs of eliminating minimum age*	1
Costs of deleting monthly income reporting**	10
Costs of additional bonuses paid pending fraud appeals*	1
Costs of limiting types of pilot projects which may be conducted to spending projects, not savings projects*	1
Costs of increased participation in pilot project areas, when purchase requirement is eliminated (the bill requires a statistically significant number of project areas. The Bureau of Labor Statistics uses a 10% sample for unemployment statistics. Assuming that a 4% sample would be required to meet the provisions of the bill, and assuming that increased participation rates would reflect the $2.1 billion estimate cited by the Chairman of the Committee on Agriculture, the bonus cost increase would be $84 million)	84
Total estimated cost of unestimated provisions of Dole-McGovern substitute	794
Estimated cost of Dole-McGovern substitute cited by proponents	389
Plus current cost of Committee bill	220
	1,403

Prepared by staff, Republican Study Committee April 7, 1976.

*Those with cost estimates difficult to assess, but still with a cost, were estimated at $1 million pending more detailed information.

**We disagree with the USDA estimate that monthly income reporting carries an associated cost, not savings, and point to the effort to remove it.

The PRESIDING OFFICER. Ten minutes remain to the Senator from Kansas.

Mr. DOLE. Mr. President, I yield myself 2 additional minutes. I appreciate the question of the distinguished Senator from New York.

I ask unanimous consent that at this point in the RECORD there be printed a rebuttal statement, the staff study by the Republican Study Committee, wherein we have gone into each one of the points raised by the Study Committee and answer some of the conclusions they reached.

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

A REBUTTAL OF THE $1.5 BILLION COST ESTIMATE FOR THE PROPOSED SUBSTITUTE PREPARED BY THE STAFF OF THE REPUBLICAN STUDY COMMITTEE

(1) The $630 cost estimate in the Committee bill was *not* based on an assumed average deduction level of $114. Rather, $100 was assumed to be the average deduction level in fiscal 1977, under the existing program.

Moreover, it is erroneous to state that the Committee bill's savings estimate is overstated to the tune of $500 million, much less $851 million. The Senator from Kansas points out the *specific* reasons for this in his statement rebutting the questions raised by Senator Allen.

(2) The $215 million cost claimed for adjusting the standard deduction semi-annually is totally erroneous. First, it assumes a 20 percent annual inflation rate—obviously too high. And second, it assumes that this adjustment would be in effect throughout fiscal 1977 when the substitute *specifically* makes it effective for only the last 3 months of fiscal 1977.

The estimate for the substitute assumes that moderate inflation of about 6 percent annually would not be enough to kick up the standard deduction until fiscal 1978 at the earliest.

(3) The $100 million cost claimed for adjusting the "poverty levels" is completely mistaken. It omits the fact that, under the Committee bill, the "poverty levels" were assumed to increase in April 1977 anyway—to about $5,925. It also fails to take into account the fact that the substitute postpones the increase until July 1977, at which time it would go to only about $6,050.

Thus, the substitute lowers the "poverty levels" from those assumed in the Committee bill for April-June 1977, and raises them only slightly over what they would have been for July-September 1977.

The $160 million cost claim is applicable to years after fiscal 1977. The substitute's estimates were for fiscal 1977.

(4) The $200 million cost estimate for mandating use of the nonfarm poverty index is totally false.

The Committee bill (and all bills using the "poverty levels" as a base) assumed exactly this in its cost estimates. Thus the substitute represents no cost-creating change over the Committee bill.

(5) Cost estimate claims for mandated issuance of ATP cards, additional exclusions from income, deleting the prohibition on minors, deleting monthly income reporting, cost of bonuses paid pending appeal of fraud findings, and the cost of pilot project limitations are complete guesses with adequate basis other than Senator Curtis' own estimates for his amendments.

Moreover, some of those provisions never had an estimate of cost savings and it is wrong to claim they have an additional cost—unless savings are also claimed for the Committee bill.

(6) The cost claim for the pilot project on eliminating the purchase requirement runs directly against the language of the substitute. The substitute places an absolute cap of $20 million on the cost of this project and, unless Congress acted to change this and directly appropriate more money, it could not cost the $84 million claimed.

Mr. DOLE. Mr. President, let me say in conclusion that, as I have said at the outset and hope to say at least immediately prior to the vote, the food stamp program needs reform.

The Senator from Kansas is not now and has not suggested the substitute bill is the perfect answer. There may be ideas or suggestions or possible amendments which would add additional savings without going to the heart of the program.

The Senator from Kansas and others interested in reforming the program, as opposed to dismantling the program, have spent a great deal of time trying to come up with some fair substitute that would pass the Senate, that would pass the Congress, and be signed by the President.

It is one thing to advocate savings of $1 billion or $2 billion or $1.5 billion, but it is quite another to find the specific areas in which to save this amount of money.

Let me say, as I said earlier, this program is not a panacea for those who are middle class or even the above average.

The PRESIDING OFFICER. The time has expired.

Mr. DOLE. Two additional minutes.

Let me reiterate that the substitute eliminates all households with net income above the poverty level.

We are talking only about those with net incomes at the poverty level or below.

It does tighten up on abuses by college students, and it should.

We do standardize the deduction. As I said at the outset, this will reduce the administrative cost of the program by millions and millions of dollars.

The program in the substitute does strengthen the work registration requirement.

Let me say finally that the USDA during the hearings, as I remember, were always reluctant to come up with figures. It may be that the U.S. Department of Agriculture opposes the substitute. I assume they do. They oppose the committee bill. The USDA and the President have come up with provisions of their own, which have not finally been made public, but I suggest that that is not reform.

That goes to the heart of the program.

I urge my colleagues in the remaining minutes of the debate to listen carefully and determine whether we are going to have reform or do away with the program.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I listened with considerable interest to the distinguished Senator from Kansas. These fine features that he points out about the food stamp bill are in the original bill. What he did not talk about were the loopholes that the substitute creates and the added expense that the substitute creates. The good features that he pointed out are already in the original bill and they are not needed in the substitute.

I want to make it absolutely clear that inadequate as the committee bill is, I am ready to vote for that right now, because I believe it does take some off of the top of the economic ladder who are on the food stamp program and are not entitled to be on it, and it does increase benefits to those at the lower rung of the ladder.

The distinguished Senator from Kansas has indicated he does not have too much confidence in estimates. I think that point is well taken. Back in 1969, according to the CONGRESSIONAL RECORD, the distinguished Senator from South Dakota (Mr. MCGOVERN) and Mr. DOLE teamed up on taking Puerto Rico off the commodity program and moving them over to the food stamp program. At that time, the commodity program was costing the taxpayers $21 million.

Mr. DOLE asked the question at that time,

With the moving with respect to the inclusion of Puerto Rico, the Virgin Islands, Guam and the trust territories of the Pacific Islands, I am wondering about the cost of this addition. What would the additional cost be because of these additions?

Mr. McGOVERN said,

I would say it will actually result in a reduction in the cost.

At that time the program was $21 million. Now the program for Puerto Rico alone is $600 million. So they missed it, the difference between $21 million and $600 million. I can well understand why they do not have too much confidence in estimates.

Mr. McGOVERN. Mr. President, will the Senator yield on that point?

Mr. ALLEN. I have no time. I have used all my time.

Mr. McGOVERN. Is there any time remaining on the side of the Senator from Kansas?

Mr. DOLE. I yield to the Senator.

Mr. McGOVERN. Will the Senator yield a couple of minutes?

Mr. DOLE. Yes.

Mr. McGOVERN. Mr. President, I simply want to clarify the RECORD on an obviously clever attempt to mislead the Senate. At the time the commodity program was operating in Puerto Rico in 1969, to which the Senator from Alabama refers, there was not a depression in Puerto Rico. There were not hundreds of thousands of people unemployed at the level they are today, and there really was not an effective commodity program functioning.

Since that time we have introduced the food stamp program, not only in Puerto Rico but we have extended it to other parts of the country. It has been a much more acceptable program to hungry people, to the poor. It has been much easier for them to go to grocery stores when they qualified, pick up their groceries and pay their share of the cost.

So the number of people participating in this program has expanded in all parts of the country.

But that was an accurate statement at the time it was made in 1969, that there would not have been an appreciable difference in the cost of running a good commodity program in Puerto Rico as against the cost of running a good food stamp program.

Puerto Rico has a serious economic depression. I do not have the unemployment statistics immediately at hand, but they are several times the size of what they are on the American mainland. If it were not for the operation of the food stamp program in Puerto Rico, which has kept a lot of people from starving to death, and which has prevented others from serious malnutrition and illness, we would have had an explosion on that island of incredible dimensions.

Beyond that, we would have had an acceleration of migration from Puerto Rico to the American mainland that would have been infinitely larger than the present movement of people. Then instead of taking care of people through the food stamp program in Puerto Rico, we would have had the problem of providing housing, of providing educational facilities, of providing food stamps, of adding them to the unemployment rolls in this country. I submit that the cost would have been much higher than the modest investment we have made in Puerto Rico to see that no one starves to death.

The truth is that the substitute amendment that Senator DOLE, Senator TALMADGE, Senator HUMPHREY, and I are offering does provide some tightening up of the Puerto Rican program. It drops the standard deduction from $100, as in the committee bill, to $60. That is going to result in a substantial saving.

It is going to bring it more into line with what the actual deduction practice is in Puerto Rico. It represents, I believe, a prudent amendment.

I do not make any apologies for the estimates that were made in 1969 about the relative cost of food stamps in Puerto Rico as against the commodity program. I think the food stamp program has served the interests of the people of that area, as in the United States, much better than the old cumbersome commodity program did.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. How much time remains on each side?

The PRESIDING OFFICER. The time of the Senator from Alabama has expired. The Senator from Kansas has 3 minutes.

Mr. DOLE. Does the Senator from Alabama desire half of the time I have remaining?

If not, let the Senator from Kansas state in conclusion the motion before the Senate is the motion of the Senator from Kansas to waive section 401(b) of the Budget Act. I certainly encourage my colleagues to support that motion.

Let the Senator from Kansas add that there are a number of changes made in the substitute, a number of changes to change the committee bill. The total number of changes I believe number 18. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a brief summary of these changes.

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

SUMMARY OF AMENDMENT NO. 1571—SUBSTITUTE AMENDMENT TO S. 3136

(1) The substitute provides for semi-annual adjustments of the standard deduction according to changes in the Consumer Price Index, with the first adjustment effective July 1, 1977.

(2) The substitute provides for semi-annual adjustment of the income poverty guidelines according to changes in the Consumer Price Index, with the first adjustment effective July 1, 1977.

(3) The substitute sets the standard deduction for Puerto Rico, the Virgin Islands, and Guam at $60 per household per month (compared to $100 per household per month for the 50 States and D.C.). The Committee bill has a $100 per month standard deduction applicable to all areas, including territories.

(4) The substitute provides an additional $25 a month deduction for households with earned income over $150 a month. The Committee bill has no comparable provision.

(5) The substitute mandates that "ATP" cards be issued 30 days after application for the recently unemployed, and also provides

for the recoupment of any over-issued benefits due to this mandate.

(6) The substitute freezes existing assets eligibility standards until 60 days after a report on asset holdings has been submitted to Congress.

(7) The substitute deletes the $15,000 limitation on income producing property and tools used in a trade or business.

(8) The substitute excludes from income VA educational benefits and educational grants and fellowships to the extent used for tuition and mandatory fees, in addition to the bills exclusions.

(9) The substitute counts income tax refunds and tax credits as assets, instead of as income.

(10) The substitute mandates the poverty levels for Puerto Rico, the Virgin Islands, and Guam be the same as those for the Continental United States.

(11) The substitute excludes from income employer-provided housing (a type of non-cash income). The Committee bill counted as income the value of employer-provided housing—up to a ceiling of $25 a month.

(12) The substitute excludes from income the income specifically excluded by other federal laws.

(13) The substitute deletes the provision making minors uneligible if they are not living with the person legally responsible for their support.

(14) The substitute deletes authority for monthly income reporting and puts into law current rules on reporting which allow recoupment of over-issued benefits if the household does not fulfill strict reporting requirements.

(15) The substitute provides that a household will be disqualified for fraudulent participation, but it must have been found guilty in a court or by a State welfare agency, after a proper hearing.

(16) The substitute sets the purchase price at 25% of net income, instead of 27½% as provided for in the Committee bill.

(17) The substitute restricts authority for pilot projects by mandating that they cannot reduce income and assets eligibility criteria or raise the percent of income charges of purchase price except for the pilot project in eliminating the purchase price.

(18) The substitute mandates a $20 million pilot project on elimination of the purchase price.

Mr. DOLE. Finally, it is the impression of the Senator from Kansas that one of the problems of food stamp legislation is that we are attempting to legislate against a myth. There is a myth around the country, in the Senate and nearly everywhere that there are millions and millions of middle- and upper-income Americans who participate in the food stamp program. If that myth were a reality we would knock off millions and millions of those people in the substitute.

I would remind my colleagues that, yes, there are some 18 to 19 million people eligible and receiving food stamps. We hear time after time how this program started off as a $35 million program back in 1965. But what those who say that fail to add is that at that same time some 7 million Americans were participating in the commodity program.

Yes, there have been additions. That was the purpose of the program, to provide low-income people with a nutritional diet.

It is the view of the Senator from Kansas that we have talked about estimates, we have talked about costs. We all would like to save more and more money, but the crucial program is, what do we do about the program itself? I believe the substitute provides the rigidity, provides some way to slow the growth of the program. It will save, I hope, more than $250 million, but approximately $250 million if the cost estimates are correct.

I believe this is a step in the right direction.

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

ADDITIONAL STATEMENTS SUBMITTED REGARDING APPLICATION OF THE BUDGET ACT TO S. 3136

Mr. MUSKIE. Mr. President, the question before the Senate is whether, pursuant to section 904 of the Budget Act, to waive the application of section 401 (b) of that act to the pending legislation, S. 3126, and the Dole amendment and amendments thereto. I intend to vote for the motion to suspend the application of section 401(b) in this case.

I do so because this motion is consistent with the purposes of the Budget Act and the presently binding second concurrent resolution on the budget for fiscal year 1976.

Section 401(b) is a technical provision of the Budget Act. It is designed to assure that entitlement legislation reported after January 1 of any calendar year not contain an effective date earlier than October 1 of that year. The simple purpose of this provision is to assure that such new entitlements, which are the extension of Government benefits to individuals who meet the requirements of the law, remain subject, like all spending, to the discipline of the second concurrent resolution on the budget which is adopted in September of each year. The drafters of the Budget Act were concerned that entitlements which become effective prior to that second budget resolution would be much harder to reconcile with other Federal spending.

I do not believe that the pending legislation and the Dole amendment to it present the problem that section 401(b) was intended to meet. The pending legislation was mandated in the concurrent resolution on the budget. In the statement of managers accompanying that legislation, the conferees stated that the amounts contained in that congressional budget assumed "legislative and/or administrative reform in the food stamp program are essential and that such reforms will be implemented in fiscal year 1976 to achieve a reduction of program costs of $1 million in budget authority and outlays." The Agriculture Committee is responding to that mandate. The effect of insisting on the literal application of section 401(b) to the pending legislation and amendments to it would be to frustrate that virtual instruction to the Agriculture Committee contained in the second budget resolution. We would also be saying to the country that needed, urgent, and publicly demanded reforms in the food stamp program must wait because of a technicality in the Budget Act.

Now some Senators may believe that section 401(b) should be waived in the case of the bill itself but not for the Dole amendment. I cannot accept that proposition. I believe that when the Senate considers the food stamp program it is entitled to consider that program in its entirety and to make needed reforms, even if some of them raise costs as well as lower them. This legislation as reported by the committee remedies a number of the more frequently criticized aspects of the food stamp program. The Dole amendment would not reinstate any of these abuses. I cannot see how we can vote to insist on the application of section 401(b) to the Dole amendment and not equally insist on its application to the bill, thus frustrating any food stamp reform until next fall. That result is not acceptable to the American people. It is not acceptable to me. And it is not required by the Budget Act.

In fact, the mandate of the second concurrent resolution on the budget requires the Senate to consider this legislation at this time.

In writing section 401(b), Congress meant to provide a safeguard against entitlement legislation being enacted without adequate consideration of the budgetary effect. The legislation currently pending was thoroughly considered by the budget committees in the context of the congressional budget resolution. Members will make up their minds about whether to vote for the Dole amendment and whether to vote for other amendments to the legislation or for the legislation itself upon its final passage, based on a number of considerations about the food stamp program. This is as it should be. But the Budget Act was not intended to frustrate congressional action when that action is consistent with the current congressional budget. The consideration of the pending legislation is consistent with the current congressional budget.

As chairman of the Budget Committee, I above all am concerned that the application of any provision of the Budget Act be waived only in rare cases. This is such a case. I intend to vote for the Dole motion.

Mr. HUMPHREY. Mr. President, I am pleased to be a cosponsor—along with Chairman TALMADGE and Senators DOLE and MCGOVERN—the substitute food stamp reform bill. In most areas, the substitute retains the original committee language. However, the substitute makes a series of improvements which will improve access to the program of needy families, protect working families, and simplify the program administratively. I urge all my colleagues to support the substitute.

Originally, Senators DOLE, MCGOVERN, and others along with myself, had planned to offer an amendment to eliminate the food stamp purchase requirement. I continue to believe that elimination of the purchase requirement would be the most important reform we could make in the food stamp program. However, there were questions about whether a bill with this provision in it

could get past the President. I therefore think that the substitute bill—with the many important improvements it contains—is a wise compromise that the Senate should adopt.

ADJUSTING THE POVERTY LINE

The substitute—like the committee bill—establishes net income limits at the poverty line. The substitute specifies that the poverty line for the nonfarm United States—as updated semiannually—be used as the net income eligibility limits for the 48 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. There would be two additional poverty lines—one for Alaska and one for Hawaii.

Many of us have, over recent months, expressed reservations about the use of the poverty line as the food stamp net income limit. There are a number of questions about the validity of the poverty line as it is now calculated, and a Federal interagency task force is now investigating this matter at the request of Congress.

However, the substitute bill does address one of the major concerns about the OMB poverty line—the fact that it is so far out of date.

The poverty line now used in Federal programs—$5,050 for a family of four—is based on the average Consumer Price Index for the 12 months of 1974, and most closely approximates the CPI's for the middle of 1974. Thus, this poverty line is now nearly 2 years out of date.

The new poverty line now being announced by OMB—$5,500 for a family of four—is based on the average CPI for 1975, and reflects conditions during mid-1975. Yet, it would take effect in mid-1976 and remain in effect until mid-1977. Thus, the OMB poverty line is generally about 1 to 2 years out of date.

The substitute bill addresses this issue by updating the poverty line semiannually, based on more current CPI data. The first such update would come on July 1, 1977, and would be done by multiplying the $5,500 poverty line by the changes between the average 1975 CPI and the CPI for March 1977. Thus, the poverty line used in the food stamp program would at most be only a few months out of date, not 1 to 2 years behind. Without such an updating procedure, use of the poverty line as the food stamp net income limits is arbitrary and unacceptable. The administration's new proposed food stamp regulations fail to continue such an updating procedure, and would thus disqualify poor families on the grounds that the families' incomes are above what the poverty line was 1 to 2 years ago.

HOUSEHOLD DEDUCTIONS

The substitute—like the committee bill—provides a $100 standard deduction for all households—except that households in the territories would get a $60 standard deduction—with an extra $25 for households with an elderly person, and with a separate deduction for Federal, State, and local income taxes and social security taxes. The substitute bill also contains an extra $25 deduction for working families, which is defined as families with at least $150 a month in earned income.

This will take into account the work-related expenses, child care costs, and so forth, that working families must bear. Without such an extra deduction that takes account of the expenses that families incur in order to work, the replacement of the current itemized deductions with a $100 standard deduction unfairly penalizes working families and fails to give a true representation of the money they actually have available to purchase food.

The substitute bill also provides for a semi-annual adjustment of the basic $100 standard deduction. This provision, absent from the committee bill, will keep the standard deduction constant in terms of "real dollars." This is an important and necessary provision. Without it, families would find it harder and harder to come up with the cash to buy their stamps as all their other expenses increased with inflation.

The specific provision in the substitute provides that for purposes of administrative simplicity, the semiannual adjustment in the standard deduction be rounded to the nearest $5 increment. We do intend, however, that the Secretary maintain a running index of the unrounded amounts for purposes of the future semiannual computations. In other words, if the first adjustment should take the deduction to $104, it would be rounded to $105. However, the base used for computing the next adjustment 6 months later would still be $104.

INCOME EXCLUSIONS

The substitute bill makes some modifications on the committee bill in the area of income exclusions. The substitute provides that housing provided by an employer to an employee should no longer be counted as income. This change has long been sought by the administration.

The substitute bill also excludes all Federal, State, and local income tax refunds and tax credits, and lump sum payments made under a program authorized by the Social Security Act. All such payments would be counted as resources—as they are under current food stamp rules—instead of as income.

In addition, the substitute excludes all payments already excluded under other Federal laws, with the exception of payments to VISTA volunteers. Among the payments that would be excluded are payments under the Alaska Native Claims Settlement Act.

The substitute bill retains the committee's bill exclusion on all in-kind benefits provided under a program administered or funded by a Federal, State, or local government agency. In addition, the substitute bill retains the exclusion for privately provided in-kind benefits whose dollar value cannot "reasonably and properly be computed," which means in-kind benefits whose worth is subject to varying evaluations. However, the substitute bill requires the counting of in-kind benefits in those cases where the value can "reasonably and properly be computed."

VENDOR PAYMENTS

The substitute bill also writes into law a current exclusion for housing vendor payments made directly to landlords, housing authorities, or mortgagees under programs administered by HUD. There was a time when USDA did attempt to count these payments, but the practice proved administratively deficient and then was struck down by the courts. These payments never go to low-income households and are not available for use on food.

THIRTY-DAY RETROSPECTIVE INCOME ACCOUNTING

In determining income for eligibility purposes, the substitute bill requires the use of a 30-day retrospective accounting period. However, the substitute bill does contain procedures that allow households that have suffered a substantial loss of earned income in the preceding 30-day period—meaning households that have been laid off, shifted to a shorter workweek, or given a pay cut—to file a food stamp application immediately. Such applications would be processed in the same manner as other applications, except for the verification of the household's income.

The food stamp office would have the obligation to inform such applicants to come in on the 30th day after the income loss, or immediately thereafter, to submit verification of income during the preceding 30-day period. The food stamp office shall have the household's "authorization-to-purchase" card already prepared, and the household must be issued the ATP card on the same day that it submits the verification of its income. In areas where States issue ATP cards from a central computer, the substitute bill requires that the State prepare the ATP card on the basis of the initial ATP card and send it to the appropriate food stamp office. The food stamp office will then hand the card to the applicant at the time the applicant submits the verification of his or her income for the preceding 30-day period.

This procedure is intended to prevent the recently unemployed, the seasonally unemployed, those shifted to shorter work weeks, and the like from having to suffer through long waiting periods before receiving food stamps. We intend that this procedure be scrupulously enforced by the Secretary. If any household submits the required income verification, but still must wait more than 30 days from the filing of its application to get its ATP card because the food stamp office did not have the ATP card ready, then this household would automatically be entitled to compensation for a wrongfully denied benefit.

I should note that in any case, the 30-day retrospective accounting period need not be used in certain circumstances where use of a longer accounting period gives a more accurate picture of the household's income. The substitute bill allows use of a longer period for self-employed persons, students receiving scholarships, farmers, and contract workers.

For example, for a worker being paid under a 3-month contract, a 3-month accounting period could be used. On the other hand, workers with fluctuating incomes—such as persons being paid on a piece work basis, migrant farm-workers—unless working under a contract during the period of that contract—and strikers—and salaried workers, welfare recipients, and most other households,

would come under the 30-day accounting period.

I would like to note that I am not fully satisfied with this 30-day retrospective accounting provision. I see no reason why the unemployed should have to wait even 30 days to start receiving stamps. But this provision is far preferable to the 90-day retrospective accounting period that the Ford administration is attempting to foist on the program by administrative fiat, and that is in violation of the current statutory requirement that eligibility for the program be based on current need circumstances.

ELIGIBILITY REQUIREMENTS

The substitute bill sets other eligibility requirements in addition to income. One of the major requirements come in the area of work registration. The bill provides for an expanded work registration program, in which more attention will be given to job training, job referral, job placement, job search, and the provision of social services. In addition, mothers with children age 12 to 18 will be required to register for work—unless there is another able-bodied person in the household already subject to the work registration requirement.

Any household containing a member who without good cause fails to comply with the work requirement will become ineligible for food stamps. "Good cause" includes such situations as the unavailability of social services—particularly child care for children 12 to 18—situations where a job presents a health or safety risk or a registrant is physically or mentally unfit for a job, or situations where a job involves such an unreasonable commuting distance that commuting time equals at least 25 percent of work time.

The substitute bill's work registration section is identical to that contained in the original committee bill. The committee intended that the entire food stamp work registration program conform as closely as possible to the WIN program now run for welfare recipients. As in WIN, more job placement and more social services should be provided. In addition, the same rules used in WIN concerning when a person is or is not required to take a job must also be used.

The substitute bill, like the committee bill, adds a further and rather strict provision in the work registration area with its requirement that if a person voluntarily leaves a job without good cause, the person's household becomes ineligible for food stamps. "Good cause" means the same thing here as it does in the other parts of the substitute bill's work registration requirement.

In addition, for further guidance in determining what constitutes a "voluntary quit," the committee, and the authors of the substitute intend that food stamp offices use rules consistent with those used in the unemployment insurance program. Thus, if a person is currently receiving unemployment insurance benefits, he cannot be considered a "voluntary quit." If a person is not receiving unemployment benefits because he was disqualified due to what the unemployment office determined to be a "voluntary quit," then the person's household should generally not be eligible for food stamps during the time the household is also under the disqualification for unemployment insurance.

If a household meets the income test and the work registration test, it still has several other tests to go. First, the substitute bill changes the definition of what constitutes a food stamp household. To be a household a group of people would have to share common living quarters, customarily purchase food in common, and have access to cooking facilities. This means that if people live under the same roof but do not purchase food in common, they must apply for food stamps as separate households, not as the same household.

The "access to cooking facilities" requirement means that a household does not have to have its facilities in its own home, but must have access to cooking facilities outside the house on some sort of regular basis.

While the substitute bill makes these changes in the definition of a food stamp household, it does not contain the provision included in the administration's regulations that would disqualify many minors from the program. To disqualify minors simply because they may reside with neighbors, friends, or some other family that is good enough to care for them is most inequitable. Such a disqualification also conflicts with the eligibility requirements in the current statute, under which low-income households must be certified on the basis of need, not on the basis of their living arrangements.

Another eligibility requirement that is contained in the substitute bill concerning SSI recipients in those States where all SSI recipients—both those receiving mandatory SSI supplements and those receiving optional SSI supplements—are now getting an extra $10 in cash in lieu of food stamps. The substitute bill provides that these SSI recipients should continue to be ineligible for food stamps for as long as they are receiving the $10 cash-out payment. The idea is that no person should receive both food stamps and the cash out. If a person is getting the cash out, he or she will not be eligible for stamps; if a person is not getting the cash out, he or she will be eligible for stamps if they meet all other food stamp eligibility criteria.

The bill also disqualifies students who are or could be claimed as tax dependents by ineligible households, and also disqualifies households that fail to provide eligibility information to the food stamp office, aliens not lawfully admitted to the United States for permanent residence or otherwise permanently residing in the United States under color of law, and households who knowingly transfer assets for the purpose of qualifying for food stamps.

ASSETS STUDY

Finally, the bill establishes one area where the Secretary may prescribe additional standards of eligibility—limits on liquid and nonliquid assets. This is the only area where the Secretary may prescribe eligibility standards that are in addition to those specifically contained in this bill. Indeed, one of the purposes of this bill is to have the Congress—rather than regulation writers—make the decisions on who shall and shall not be eligible for the food stamp program.

In addition, the bill does contain a prohibition on any proposed or final changes in assets rules until USDA has completed a thorough study on the assets area and presented this study to Congress, and Congress has had 60 days to review the study. We intend the study to include a survey of what types and amounts of nonliquid assets food stamp households have, of the administrative complexities and expenses involved in assessing these assets, and other issues relating to assets limits. The committee estimated the cost of this major study at $10 million.

FOOD STAMP PURCHASE COSTS

Under the substitute bill, households that are determined to be eligible for food stamps will receive a coupon allotment that equals the value of USDA's thrifty food plan. This means that the coupon allotment formula now set by USDA regulations would be written into law. To receive this coupon allotment, households would pay 25 percent of their net incomes. For administrative convenience and to avoid errors, the Secretary would be allowed to round this purchase price up or down to the nearest dollar.

The 25-percent purchase price is one of the key changes in the substitute bill. If the purchase requirement is to be retained rather than eliminated, it must be set at a reasonable level that allows needy families to participate. Current food stamp law requires the Secretary to set purchase prices at a level that would constitute a "reasonable investment" of household income. The 25 percent formula is a reasonable investment.

Under current rules, USDA uses a sliding scale that varies from 0 to 30 percent of net household income. Only about 5 percent of all households pay 30 percent, however. The new USDA regulations that would require all households to pay 30 percent of net income for their stamps are unconscionable. The 30 percent purchase price for all households also violates current law; 30 percent is not a reasonable investment level for all households in the program, and would bar participation in the program by some of the truly needy whom Congress intended that the program serve.

Under the substitute bill the food stamp program—rather than the commodity distribution program—would continue to be mandatory in all parts of the United States except for those Indian reservations where commodities are still being used. Those reservations could continue to receive commodities for such time as is needed to effect an orderly transition to the food stamp program.

Under Public Law 93-347 as amended, reservations may opt to receive commodities rather than food stamps until September 30, 1977. Nothing in the substitute bill is intended to force reservations wishing to receive commodities until that time to switch entirely to food stamps—and to stop receiving any commodities—prior to September 30, 1977.

In addition, the substitute bill authorizes the Secretary to continue to provide

commodities to a reservation after September 30, 1977, if more time is needed to effect an orderly transition to food stamps.

ADMINISTRATIVE CHANGES

The substitute bill makes a great many changes in the administration of the program as well as in eligibility requirements. Of particular importance is a provision requiring that all households must both be given a food stamp application and allowed to file it "on the same day of such household's first reasonable attempt to make an oral or written request for such application." This means that food stamp offices could not simply tell an applicant to come back in 2 weeks for an appointment and decline to give the applicant and application form until the interview. The very fact that the applicant said he or she wanted to apply and signed up for an appointment would clearly constitute a "reasonable attempt" to request an application, and would require the food stamp office to provide an application form at the time this occurred.

Present USDA rules specify that an application can be filed, and must be accepted by a local food stamp office if it has a legible name and address and is signed. We intend this rule to remain in effect.

The substitute bill also requires that households be provided with an "authorization to purchase"—ATP—card within 30 days after the filing of an application. The ATP card must be effective in the month in which the 30th day after filing of the application occurs, and the household must have an opportunity to purchase food stamps in the same month.

This provision is designed to insure that households do not lose benefits because food stamp offices fail to process their applications promptly. If a food stamp office does not provide an eligible applicant with an ATP card within 30 days, or does not provide the household with an opportunity to purchase stamps in the month in which the 30th day occurs, then this would constitute an improperly "delayed" benefit. In such cases, the food stamp office would be required to compensate the household—in accordance with procedures prescribed under section 7(c) of the substitute bill—for benefits lost from the first of the month in which the 30th day after the filing of an application occurs.

The whole area of compensation for benefits lost through administrative error is another subject that the substitute bill addresses. Under this bill, all such compensation would be made in cash, rather than through the current cumbersome procedures under which a household's purchase price is reduced in future months.

As is the case under current regulations, food stamp offices would be expected to make such compensation automatically when an error is discovered by the food stamp office. In such cases, recipients would not have to ask for a fair hearing or file a formal request to receive this compensation.

In cases where it is necessary for the household to apply for compensation—as in the current situation where households receiving HUD vendor payments that were improperly counted as food stamp income must file for their back benefits—the household must file within 3 months after first finding out about the error. In these cases, food stamp offices should send households the necessary forms with directions on how to complete and by when they must be filed.

The substitute bill also places a limitation on how much compensation a household may receive. Compensation will be limited to a household's food stamp bonus for 3 months, except that if the period during which the error occurred was longer than 3 months, then the household shall receive compensation equal to the household's bonus for 3 months plus its bonus for the additional time taken between filing of the claim—or other institution of procedures—for the retroactive benefit and the final decision settling the claim.

In another significant administrative change, the substitute bill like the original committee bill, requires USDA's Extension Service to extend its nutrition education program to all areas, and to provide all food stamp offices with printed hand-outs to help recipients buy and prepare more nutritious and economical meals. The committee recognized that Extension Service personnel cannot meet with every food stamp family, but the committee—and the authors of the substitute—intend that all households at least be given the printed handout materials designed by the Extension Service.

In the outreach area, the substitute bill is again the same as the committee bill. The bill retains the current statutory requirement that States "undertake effective action—to inform low-income households concerning the availability and benefits of the food stamp program" but drops the current requirement that states also "insure the participation of eligible households." The committee and the authors of the substitute felt that no agency can "insure participation" or push eligible people who do not want food stamps into the program.

In addition some administrators have thought that the "insure participation language required them to send notices about food stamps to almost everyone in the State. In one State, a retired Federal judge received such a notice. Other States have been concerned that this language would require them to send a certification worker out to the home of every applicant who lived more than a few miles from a food stamp office and did not own a car. To relieve States of such burdens, the committee bill and the substitute bill delete the "insure participation" phrase.

However, the committee and substitute bill reaffirm the requirement that States undertake effective action to inform low-income households about food stamps, as the States are currently required to do by those portions of outreach regulations and instructions that deal with informing potential eligibles about the program. Upon enactment of this legislation, States should devote particular attention to informing low-income households about the major changes in food stamp eligibility that the bill makes.

The bill also requires Federal agencies that administer programs for needy people—such as the SSI program, social security, unemployment insurance, Federal housing programs for low-income people, social services programs, programs of the Community Services Administration, et cetera—to inform recipients of these programs about food stamps. We in no way intend to require these agencies to send an individual mailing about food stamps to every recipient. What we do intend is that all such agencies make all reasonable efforts to inform their clients about food stamps. This would mean, at a minimum, that such agencies would routinely give all clients a handout containing basic information about food stamps and the addresses and phone numbers of local food stamp offices.

The substitute bill also requires that bilingual certification workers and printed materials shall be used in areas where a substantial portion of the poverty population—such as more than 10 percent of the poverty population—are Spanish speaking or speak some language other than English.

Yet another provision included in the substitute bill to aid low-income persons would authorize the Secretary to require food stamp certification workers to be outstationed in SSI offices so that aged, blind, and disabled SSI recipients will be permitted to apply for SSI and food stamps at the same time. It is our expectation that the Secretary will issue regulations along these lines.

A final action to aid recipients was the committee's decision retained in our substitute bill to maintain the requirement that every household be informed of its option to purchase food stamps at least twice a month. The committee, and the authors of the substitute, also decide to allow each household to use a variable purchase option under which the household may purchase on one-fourth, one-half, or three-fourths of its full monthly allotment at its first biweekly purchase and may then purchase the full remaining amount of its monthly allotment at its second biweekly purchase.

The substitute bill also takes the very important action of denying to the Secretary the authority to require monthly income reporting. Monthly income reporting, as proposed in the administration's regulations, would pose impossible administrative burdens for the States, and work hardships on the elderly, blind, disabled, non-English speaking families, and illiterate persons. Monthly income reporting also involves basing eligibility and benefits on past circumstances rather than current need, which violates current statutory requirements.

What the substitute does do is require all households to report any change in income of more than $25 a month within 10 days after such change becomes known to the household. If the household fails to report such a change in a prompt manner, and receives extra food stamp benefits as a result, then the food stamp

office would either recoup these benefits in cash or would lower the household's benefits in the household's next certification period so that excess benefits are recovered.

The authors of the substitute intend that the Secretary will act to insure prompt reporting by households by requiring that all households be given a "change of income report form" and a postpaid envelope at the time of certification. The form shall state that households must report changes within 10 days and contain instructions on how the form is to be completed, if such a change occurs.

In addition, the authors of the substitute expect that the Secretary will maintain current rules under which households with very unstable incomes—such as strikers—are certified for only 1 month at a time.

The substitute bill also specifies that households found to have committed fraud either by a court of competent jurisdiction, or by a State hearing official after a proper hearing, could be disqualified for food stamps for up to 1 year. Local food stamp offices could not make a finding of fraud and disqualify households on their own. If a local office believed that it had evidence of fraud, it would refer the evidence to the State, which could then either initiate an action in court or schedule a hearing before a State hearing official.

Finally, the substitute bill contains authority for pilot projects, but contains a provision that no pilot project—except for a pilot project on elimination of the purchase requirement—could reduce or terminate benefits for any household otherwise eligible under the Food Stamp Act. We expect, in particular, that the Secretary will carry out his announced plans to run pilot projects on a variety of identification procedures. We also expect that the Secretary will take this pilot project authority seriously, and will not rush ahead and issue requirements for photo-identification cards, countersignatures on food stamps, or other changes in identification procedures until the results of these pilot projects are in.

The substitute bill also contains a specific requirement for a pilot project on the elimination of the purchase requirement. This project would have to be run in at least 10 areas; and a progress report would be presented to the Congress by March 1, 1977. The substitute bill authorizes up to $20 million for this pilot project, and we have figured a $20 million cost for this project in our estimate of the overall cost impact of the substitute bill. This means that the project may not add more than $20 million to what the cost of the program would otherwise be in these 10 pilot areas if the purchase requirement were retained and set at 25 percent of net income in these areas.

One final word should be mentioned about the administration's proposed regulations before I complete my remarks. The President—without consultation with the Congress and by administrative fiat—is planning to implement far-reaching regulations that are both unwise and unlawful.

By establishing food-stamp eligibility on a poverty line that is 1 to 2 years out of date, the proposed regulations clearly will prevent needy people from gaining access to nutritional adequacy through the food stamp program. Taken as a whole, the administration's new income eligibility rules—with their changes in the definition of income, their use of an outdated poverty line, their failure to deduct income taxes from the income calculation, and their failure to provide additional deductions to working families who have higher work expenses—violate the policy of the Food Stamp Act that everyone be provided with access to nutritional adequacy. Simply stated, the Agriculture Department's regulations would deny aid to people who do not have access to good diets and they, therefore, violate the Food Stamp Act.

The use of a 90-day retroactive income accounting period and a monthly reporting of income system also violates the Food Stamp Act's policy of providing aid to currently needy households. The proposed regulations would base eligibility on past, rather than present, need circumstances, and such a change in the regulations would clearly be contrary to the Food Stamp Act. The regulations would create the anomalous situation of denying aid to people who need it while providing relief to people who do not need it. This, obviously, would be a clear frustration of congressional intentions under current law.

I am dismayed that the proposed regulations would penalize working families by failing to deduct their taxes and social security withholdings from the income calculation. As a result of the new regulations, a working household with about $5,800 in take-home pay—but with pretax, gross income just above $6,700—would be ineligible for food stamp aid, while a welfare family or a family with unemployment compensation totaling just under $6,700 could get many hundreds of dollars in food stamp aid. I think it is unfair to deny aid to a working household with a real income of $5,800 while providing food stamp aid to nonworking households with up to $6,700 in income.

Aside from being unfair, the failure to deduct taxes, social security withholding and the like from the food stamp income calculations violates the Food Stamp Act. The purpose of the act, particularly as manifested by section 5(c) of current law, is to encourage and require work, not to penalize it. Moreover, the Food Stamp Act requires that income calculations be based on income that is reasonably available to the household, and obviously tax deductions and social security withholdings are not reasonably available to a household.

The provision on minors—that denies aid to minors who are not living with people who have a legal obligation to support them—is also clearly illegal. That provision in the new regulations seeks to establish a new definition of the word "household" in contravention of the statute's clear definition of that term as contained in section 3(e) of the act. A person resides in a "household" as long as it is part of an economic unit, purchases food in common, lives in common living quarters, and has access to cooking facilities. Any additional requirement for satisfying the "household" requirement—for purposes of qualifying for food stamp aid—clearly is contrary to the statutes.

The new regulations with regard to increasing the food stamp purchase requirement—from an average 24 percent of adjusted net income to a uniform 30 percent of adjusted net gross income—is also illegal. The statute requires that food stamp purchase prices constitute a reasonable investment and that they remain within 30 percent of adjusted income ceiling. We never intended that an across-the-board 30 percent of adjusted gross income be established. Quite the contrary. Such a system would make the food stamp program out of reach for millions of needy Americans since they could not afford the food stamp purchase prices.

Consequently, these increases in the purchase price do not constitute a reasonable investment on the part of most needy households, and they violate section 7(b) of the Food Stamp Act. Indeed, we made precisely such a finding last year when we rejected the President's proposal to increase food stamp prices to 30 percent.

Mr. President, a great deal of work has gone into this substitute bill. It represents a reasonable compromise. I urge its approval.

Mr. HUGH SCOTT. Mr. President, I rise in support of the substitute bill that I have cosponsored with Senators DOLE, Chairman TALMADGE, Senators MCGOVERN and JAVITS and others. This substitute bill would establish a delicate balance between the need to put reasonable limits on the number of people who can participate in the food stamp program while preserving poor people's access to nutritional adequacy.

Mr. President, I heartily commend the chairman (Mr. TALMADGE), and the ranking minority member (Mr. DOLE), of the Committee on Agriculture and Forestry, for their long and most diligent work on this reform legislation. Throughout their hearings and markup, they, together with the other committee members, took careful aim toward balancing the need for program reform with the demand that the needy Americans dependent on the program not be shortchanged. It was indeed a formidable task to weigh all the competing views and forge a committee bill that attempted to satisfy all valid concerns.

Of course, the committee bill aroused strong objection from a number of Senators who thought that it lowered eligibility and closed loopholes, but failed to do anything for these needy Americans who remain on the program and those eligibles who have been denied access to its benefits. I was among the large number of Senators who considered the committee bill unsatisfactory. In fact, I joined with a number of my colleagues in introducing an amendment to eliminate the purchase requirement, and to update the poverty line and standard deduction.

It is because of the controversial nature of that amendment and the need to

present the President with a bill he would sign that I am pleased to cosponsor this substitute today. Unfortunately, we have had to forego our aim of eliminating the purchase price but in return we have plowed back some of the savings of the committee bill to help those who need assistance. We have a good compromise that both significantly improves the committee bill and still saves millions of dollars over the current cost of the program.

One of the most important features of the substitute bill is our retention of the 25-percent purchase requirement. Current law states that food stamp purchase prices should represent a reasonable investment on the part of eligible households, meaning that food stamp purchase prices should not be too high so that eligible households are forced out of the food stamp program due to overly high prices.

The current regulations establish food stamp prices that average 24 percent of net income minus various itemized deductions. New regulations, recently published by the Department of Agriculture, would increase these purchase prices to 30 percent of gross income minus a standard deduction. This newly proposed price system would increase food stamp purchase prices even higher than the purchase price increases that the Agriculture Department sought to implement last year but were overwhelmingly rejected by the Congress. As a result, vast numbers of needy people will be forced out of the food stamp program. Consequently, these prices constitute an unreasonably high investment on the part of hungry families.

The substitute bill closely approximates the purchase price rate in the current Food Stamp Act. I believe that the substitute bill makes a substantial improvement on the committee's bill; the committee's bill would have increased the "reasonable investment" price standard in the current law by increasing food stamp prices to 27½ percent of net income. The substitute bill, more properly I believe, retains the "reasonable investment" concept by retaining food stamp prices at the 25-percent level.

In addition to the purchase requirement provision, the substitute bill would improve the committee's bill by requiring semiannual updates of the poverty eligibility line and the standard deduction. Failure to provide such an update system would consign poor people—with incomes below the current poverty line—to hunger and malnutrition by denying them access to the food stamp program. Under the present statute, the unlawfulness of using an out-of-date poverty line is obvious, and we should not make such a discredited system lawful by enacting the committee's bill. The weakness and unlawfulness of using an out-of-date poverty line is clear from a description of the recent regulations proposed by the Agriculture Department.

Under USDA's new proposal, the food stamp eligibility standard—from June 1, 1976 to May 31, 1977—would be $5,500 for a family of four. This $5,500 is the recently announced average poverty line for calendar year 1975, and it approximately reflects the poverty line that existed in June, 1975. This means that the eligibility standard from June 1, 1976 to May 31, 1977 will be 12 to 24 months out-of-date. The resultant consequences are that families with incomes well below the current poverty line will be denied food stamps. Therefore, even though the present law mandates access to nutritional adequacy—through the food stamp program—for all those households that do not have such access, the proposed regulations would frustrate this commendable congressional objective.

By establishing an appropriate eligibility update system, the new law would require currently needy families to have access to the food stamp program. Moreover, the cost-of-living adjustment in the standard deduction that is incorporated into the substitute bill would also ensure that needy people receive aid based on current economic circumstances. Since the standard deduction is intended to cover various necessary expenses, the standard deduction should be updated to keep pace with increases in the cost of living.

I am also glad to recommend the substitute bill because it preserves the work incentives that are incorporated into current law. We accomplish this by providing an additional $25 monthly deduction for households that earn at least $150 per month through gainful employment. This provides needy families with an incentive to work and covers various work-related expenses that wage earners incur. This improves the committee's bill which would have treated working and non-working families alike—thereby harming working families that have higher expenses for transportation, day care, and work-related equipment and apparel than non-working families.

Of course the substitute bill retains the provision in the committee bill that deducts income tax and social security withholdings from the income calculation. Deducting Federal, State and local income taxes as well as social security withholdings from the income calculation is necessary to prevent any discrimination against working families. Here, again, the newly proposed regulations illustrate this point.

Under the new regulations, a working family with slightly more than $6,700 in gross income—but only $5,800 in take-home, or actual, income—would be denied food stamps; however, a non-working family with up to $6,700 in income from unemployment compensation could get about $500 in food stamps. This is unfair; it discriminates against workers; and it clearly contravenes current law.

The Food Stamp Act requires that income calculations be based on actually available income, and income tax and social security withholdings do not qualify as actually available income. As a result of this change in the regulations working families—with incomes well below a base subsistence level—would be precluded from food stamp program participation. This is wrong and it does not square with the act's policy of providing nutritional adequacy for the needy and the act's policy of establishing work incentives. The failure, in the new regulations, to provide a special deduction allowance for working families similarly frustrates the current statute's objectives.

The substitute bill essentially retains the present act's policy of basing food stamp eligibility and benefits on current need. The substitute bill accomplishes this result by prohibiting the Agriculture Secretary from instituting a monthly reporting of income system. Such a monthly reporting system would require households to report, within the first 10 days each month, the income they received during the previous month for use in the preceding month. This means that the income received in March would be reported in April for determining a household's eligibility and benefits in the month of May.

The problem with such a reporting system is that it inherently requires the use of outdated information for purposes of determining eligibility and benefit levels. This is prohibited under the Food Stamp Act now in effect, and we would perpetuate that prohibition by specifically withdrawing the authority—contained in the committee bill—to establish a monthly income reporting scheme.

The wisdom of such a prohibition becomes obvious when one talks to State and local food stamp administrators. A monthly reporting of income system, particularly as proposed in the Agriculture Department's new regulations, would be very expensive to administer and would entail the usage of millions of reams in additional food stamp forms.

Similarly, we have rejected the proposal that would base food stamp eligibility and benefit levels on a 90-day retrospective accounting period basis. Such a 90-day retrospective accounting proposal clearly frustrates, by its very definition, the current Food Stamp Act's policy of establishing food stamp aid on the most current economic circumstances faced by households. To put it plainly, we want to help people who need help now; conversely, Federal tax dollars should not be spent to provide food stamps to those who do not currently need such aid. That is what the present law requires and the present law, in this regard, makes good sense.

The substitute bill basically maintains this sound policy by changing the committee's 30-day retrospective accounting system. The substitute requires that any household that suffered a reduction in earned income—such as a household whose breadwinner was recently laid off—be certified for assistance based on current need circumstances. Moreover, such certification based on current need must be accomplished no later than 30 days from the household's first request for food stamp assistance. This means that no deserving household will be harmed as a result of changes in past income, and we thereby retain the current act's basic policy of establishing eligibility and benefit levels on present-need circumstances.

Taken as a whole, this substitute bill is a very fine piece of legislation. I strongly urge its adoption because it strikes a fair balance between the need to prevent

program abuses while retaining adequate aid for the needy. It is true food stamp reform and I, therefore, urge the adoption of the substitute bill.

STATEMENT OF SENATOR M'GOVERN

Mr. McGOVERN. Mr. President, the substitute bill which I have introduced along with Chairman TALMADGE, Senator DOLE, and Senator HUMPHREY is a good compromise package that deserves the support of the Senate. It does not eliminate the food stamp purchase requirement, but it does lower the purchase requirement from 27.5 percent of net income—as contained in the committee bill—to 25 percent of net income. The substitute also contains a number of other important modifications of the committee bill, while retaining many solid provisions that the committee agreed upon. I trust that the Senate will find this a meaningful piece of food stamp reform legislation.

The substitute bill, like the committee bill, eliminates families with net incomes above the poverty line. I do not believe the poverty line to be a good indicator of who should or should not be eligible for food stamps. The methodology involved in the determination of the poverty line is qucstionable. In fact, an interagency task force is now preparing a report on the poverty line at the request of the Congress.

It should be noted, however, that the substitute bill makes an important change in the computation of the poverty line to keep it more up to date. One of the problems with the poverty line now used in many Federal programs is that it is 1 to 2 years out of date. The new poverty line figure just announced by OMB, $5,500 for a family of four, is based on the average Consumer Price Index for 1975. Under the administration's new proposed food stamp regulations, which use the poverty line without updating it, the $5,500 figure would take effect on June 1, 1976 and remain in effect in the food stamp program through spring or summer 1977. Thus, the poverty line figure used in the program would always be about 1 to 2 years out of date.

The substitute bill substantially remedies this problem by providing for semiannual updates of the poverty line that would base it on much more current CPI data. Without such a provision for updates, use of the poverty line as the net income limit is unacceptable.

The substitute bill also specifies that the net income limits in Puerto Rico, Guam, and the Virgin Islands must be the same as those in the continental United States.

The substitute sets a uniform purchase price at 25 percent of net household income. We felt that the 27.5 percent figure in the original committee bill was simply too high.

I am grateful that the Senate is rejecting the provision in the administration's regulations to raise the purchase price to 30 percent of net income. At present, only about 5 percent of all households pay 30 percent of net income for their stamps, in accordance with the current law which requires households to be charged a "reasonable investment" for their stamps. For most households, 30 percent of net income is not a reasonable investment. Indeed, the 30 percent provision of the new regulations violates the intent of Congress in enacting the food stamp law now in effect.

Under the substitute bill, a household's net income would be figured by subtracting from gross income a standard deduction of $100 a month—plus an extra $25 for households that either contain an elderly person or that have earned income of at least $150 a month—and also subtracting Federal, State, and local income taxes and social security taxes. In Puerto Rico, Guam, and the Virgin Islands, the basic standards deduction would be $60 rather than $100.

The $25 deduction for working families is a new feature in the substitute bill. It is necessary to cover commuting costs, union dues, mandatory payments in health plans, child care costs, and other expenses that working households must incur in order to maintain their jobs. The current itemized deduction takes account of all these expenses. Without the extra $25 deduction for these families, as well as the deduction for taxes, working families would be treated inequitably.

In the deduction area, I should note that the bill provides for a semiannual adjustment of the $100 standard deduction, rounded to the nearest $5. Each adjustment will be based on the unrounded amount from the previous 6-month period. This update is essential to keep the standard deduction current with inflation. Without such an update mechanism, families will have a harder time coming up with the cash necessary to buy their stamps in future years.

The substitute bill also modifies current regulations regarding income exclusions. The substitute bill continues the present exclusion of in-kind benefits provided through Federal, State, or local government programs. However, in the area of privately provided in-kind benefits, the substitute elects a new standard. If the value of the benefit cannot be reasonably and properly computed, meaning that it is subject to differing assessments, it must continue to be excluded. If the value of such a benefit can be accurately computed, without arbitrary judgments entering the picture, it would be counted.

The substitute also excludes Federal, State, and local tax refunds and credits, and lump-sum payments made under Social Security Act programs. The substitute, like the committee bill, writes into law the current exclusion—required by court order—on HUD housing vendor payments. The committee believed that since these payments go to landlords, housing authorities and mortgagors—and do not increase the funds available to a household for food—they should not be counted as income.

The substitute bill also contains a provision requiring that income be counted on a 30-day retrospective basis, rather than on the current prospective basis. However, we were concerned that persons recently suffering a substantial earned income loss—meaning those who recently have lost their jobs, or have been put on shorter workweeks, or have taken pay cuts—not be made to wait unduly long periods before starting to receive stamps. As a result, the substitute bill allows such persons to file an application immediately after the income loss. The food stamp office would have the obligation to inform such persons to come back to the food stamp office on the 30th day after the income loss and verify their income over the 30 days just ended. The food stamp office would be required to complete processing of such applicants immediately, and issue them an authorization-to-purchase card on the same day. The food stamp office must have the ATP card ready, so that it can be issued on the spot. If the food stamp office did not have the ATP card ready, and the household consequently did not get an opportunity to purchase stamps by the 30th day after filing its application, the household would be entitled to compensation for an improperly delayed benefit.

The substitute bill does allow some exceptions to the entire 30-day retrospective accounting approach in the cases of persons whose income can more accurately be gaged by averaging it over a longer period of time. Under the committee bill, a different accounting period can be used for self-employed households, farmers, students receiving scholarship-type assistance, and employees working under contract. Thus, for example, a teacher paid under a teaching contract could not receive food stamps during August simply because he or she received no check during the 30 days of July. On the other hand, seasonably employed workers who do not work under contracts—such as itinerant farm-workers—would still fall under the 30-day accounting period.

While I am not happy with the 30-day retrospective provision, I should note that it is far superior to the 90-day retrospective accounting provision that the administration has proposed. The 90-day proposal would make many of the unemployed wait for months before they could start receiving food stamps. The 90-day provision clearly conflicts with the current statutory mandate that food stamp eligibility be based on current food needs, not on needs several months in the past.

In the assets area, the substitute maintains a committee provision requiring an assets study. No changes in assets rules could be proposed by the Secretary until 60 days after the study is presented to Congress.

After the study has been completed and the 60-day congressional review period passes, the Secretary would have the authority to raise assets limits by regulation. The assets area is the only area in the entire food stamp program where the substitute bill leaves it up to the Secretary to set additional eligibility standards. In every area other than assets, eligibility standards would be strictly limited to those prescribed in the bill. The Secretary could not, on his own, add new income exclusions. Nor could he, on his own, establish any requirements for eligibility in addition to

those set in the bill—with the exception of assets limits which the Secretary could prescribe after congressional review of the assets study.

The substitute bill follows the committee's bill lead in doing a comprehensive job of setting eligibility requirements. It is encouraging to see the Congress taking the initiative in an area such as this rather than leaving so many decisions up to the regulators in the executive branch.

Among the new standards in the substitute bill is a requirement that persons who both share common living quarters and purchase food in common must apply for food stamps together as one food stamp household. On the other hand, persons who do not customarily purchase food in common would apply for stamps as separate households.

All households would need to "have access to cooking facilities" in order to qualify for stamps. This does not mean that low-income households must have cooking facilities at their own residence. If a household had some sort of regular access to cooking facilities outside its home, this would be acceptable.

The substitute bill deletes a provision in the committee bill that would have disqualified certain minors. This provision would have penalized low-income families who care for a child of a friend, neighbor, or relative.

The provision to disqualify minors also appears in the administration's new regulations. I must make a comment on this. Current law defines a food stamp household as a group of persons who live together, purchase food in common, and are an economic unit. The new regulations would deny food stamp aid to minors who are not residing with parents or others who are legally obligated to support those minors. The Secretary has exceeded his legal authority in proposing the disqualification of minors who otherwise qualify under the act.

In addition to the other eligibility provisions in the bill, we have also dealt with two classes of low-income recipients who are being served by alternative programs other than food stamps —SSI recipients in the four "cash-out" States, and Indians on reservations that still operate commodity programs.

The substitute bill makes SSI recipients ineligible for stamps in States where all SSI recipients—whether they are receiving SSI mandatory supplements or SSI optional supplements—are getting an SSI cash-out payment instead of stamps. Our intention is to deny stamps to all recipients actually getting the cash-out payment and to provide food stamp eligibility for SSI recipients who are not getting the cash-out payment and who meet the other food stamp eligibility standards.

In regard to Indian reservations, the bill provides authority for both food stamp and commodity programs to operate side-by-side on reservations making an orderly transition to food stamps. This provision is in no way intended to limit the option reservations now have, as provided in Public Law 93-347, to receive commodities rather than stamps until September 30, 1977. This provision also gives the Secretary authority to continue to provide commodities to reservations after September 30, 1977, if this is necessary to effect an orderly transition to food stamps.

One of the other major areas covered in the bill is work registration. The committee approved a new work registration section offered by the chairman (Mr. TALMADGE). The substitute bill retains this section intact. The new work component of the food stamp program would include greatly increased activities by the Labor Department in the areas of job training, placement, and referral. Recipients would have to engage in job search activity and would be disqualified from the program if they failed to comply with the requirements without good cause. Good cause would include such things as the fact that the recipient was not provided with social services, such as child care, or that the job presented a health or safety risk or required too long a commuting distance.

In general, the committee's intention in this area was that the work registration program be modeled along the lines of the WIN program. More emphasis would be placed on job training and placement as in WIN. In addition, the same requirements concerning when a registrant is or is not required to take a job would be used in food stamps as are used in WIN.

The work registration provisions also disqualify persons who voluntarily left a job without good cause. In general, food stamp offices would look to State unemployment insurance determinations to ascertain what constitutes a "voluntary quit." A person currently under a disqualification for unemployment insurance because of a "voluntary quit" would also be ineligible for food stamps while he or she was ineligible for UI, unless the person was found to have left the job for good cause. A person currently receiving unemployment insurance would be eligible for food stamps.

A final provision that could disqualify recipients is a new provision on fraud. A person who is found by a court of competent jurisdiction, or by the State agency—after a proper hearing—to have fraudulently obtained stamps would be disqualified for a period of up to 1 year. The finding of fraud could not be made by a local food stamp official—it would have to be made by a court or a State hearing official.

The substitute bill makes nearly as many changes in the administrative area as in the eligibility area. The bill requires all applicants to be offered an application at the time they make their first reasonable attempt—written or oral—to request food stamp assistance. A new GAO study shows that it now takes an average of 4 or 5 days between an applicant's first contact with a food stamp office and the actual filing of an application. The bill would require a much speedier process here.

Whenever the applicant first contacts the food stamp office and seeks assistance, the application would have to be provided right away. As under present USDA rules, food stamp offices would have to accept applications when they are submitted, so long as the application contained a legible name and address and was signed. Food stamp offices would then have to process the application, issue an ATP card, and provide the household with an actual opportunity to purchase stamps within 30 days after the first request for aid. If this is not done in such a timely basis, then the household would automatically become entitled to compensation for a wrongfully delayed food stamp benefit. The compensation would include benefits for the entire month in which the 30th day after the filing of an application fell.

The bill also makes changes in the nutrition education and outreach areas. USDA's Extension Service would extend its nutrition education activities into all project areas. The Extension Service would provide printed handouts on nutrition and consumer education that would be given to all food stamp households when the households come to their local food stamp office.

In the outreach area, the substitute bill—like the committee bill—drops the requirement that States "insure the participation of eligible households." It was felt that this statutory language placed an actual or potential burden on States. No one can actually "insure" that an eligible household participates in the program after being informed of the program. Therefore we decided to retain the requirement that States "undertake effective action . . . to inform low-income households concerning the availability and benefits of the food stamp program," while dropping the requirement that after informing households about the program, State agencies take additional actions to insure their participation.

For example, some States have felt that the "insure participation" requirement meant that they had to dispatch certification workers to nearly any applicant's home if the applicant indicated any problem whatsoever in reaching the food stamp office. We felt that such a burden should not be imposed on the States. We do, however, want the information programs currently required of the States to continue. Our bill leaves in effect those parts of current outreach regulations and instructions that deal with informing eligible households about the program's availability, benefits, and eligibility criteria.

We also believe that States should not be the only agencies required to inform the poor about food stamps. Agencies that administer Federal programs for low-income persons would also be required under the bill, to "make every reasonable attempt" to inform recipients of those programs about food stamps. At a minimum, these agencies would have to provide that all their clients—upon visiting the offices responsible for running these programs at the local level—be given a hand-out with some basic food stamp information and the addresses and phone numbers of local food stamp offices.

We are also concerned that non-English-speaking persons and SSI recipients have better access to the program. The bill requires that multilingual certification workers and printed materials be

used in areas where a substantial proportion of the low-income families—such as more than 10 percent of those below the poverty line—speak a language other than English.

In addition, the bill mandates the Secretary to require food stamp certification workers to be based at SSI offices so that aged, blind, and disabled SSI recipients do not have to make two separate trips to apply for food stamps and SSI. We expect the Secretary to promulgate regulations or instructions to implement this provision.

The committee bill, and our substitute as well, reaffirms that requirement that all food stamp households be individually informed at the time of application and reapplication that they have the option to purchase food stamps at least twice a month. At the first purchase each month, households may buy one-quarter, one-half, or three-quarters, or all of their monthly food stamp allotment, under the bill. A household must then be allowed to buy the full remaining amount of its allotment at its second purchase of the month.

The substitute bill also includes a provision regarding benefits lost through administrative error: the bill provides that all such lost benefits be repaid in cash. As at present, food stamp offices would generally have to provide compensation automatically when an error is discovered by the food stamp office. In most cases, the recipient would not have to make an official request for this compensation.

In those situations where it is necessary for a recipient to apply for this compensation—as is currently the case regarding households who were wrongfully denied food stamp benefits because HUD housing vendor payments were counted as income—the recipient would have to apply within 3 months of finding out about the error. In these situations, the food stamp office must send the recipients the necessary application, with instructions on how to fill out the form and when to file it by.

The bill limits the amount of compensation a household may receive to the household's bonus for 3 months—except that if a household's lost benefits total more than its benefits for 3 months, the household will be given compensation equivalent to its bonus for 3 months plus its bonus for the time between the filing of the claim for compensation and the final adjudication of the claim.

One of the key changes in the bill is its denial of authority for monthly income reporting. The bill establishes an alternate reporting procedure in place of the unworkable monthly reporting system contained in the administration's proposed regulations. Under our alternate procedure, all households would get a "change of income" form and a postpaid envelope at the time of their certification. If during the certification period they experienced any change in income of over $25 a month, they would have to report this change on the form, and mail the form to the food stamp office within 10 days after the income change became known to them. If the household got extra benefits because it did not report promptly, these would be recouped in its next certification period.

In addition, we expect the Secretary to maintain current rules under which households with very unstable incomes—such as striking workers—would be certified on a monthly basis.

Finally, the committee bill contains authority for pilot projects. Such projects could not result in the termination or reduction of benefits for households eligible under the act however.

USDA Assistant Secretary Richard Feltner told the Committee several months ago that USDA planned pilot projects on such matters as photo-ID cards. We anticipate that pilot projects will be mounted, and that the Secretary will carefully consider the results of these projects before issuing new rules on matters such as identification procedures.

The bill does specifically require a pilot project on the elimination of the food stamp purchase requirement. This project could not add more than $20 million to the cost of what the program would be in the pilot project areas if the 25 percent purchase requirement were maintained there.

All in all, the substitute bill is a reasonable compromise worked out by reasonable legislators. I urge its acceptance and enactment.

Before I complete my remarks, I believe that it is appropriate to comment about the recent regulations published in the Federal Register by the Department of Agriculture. These regulations, if implemented, would severely penalize low-income families and households whose breadwinner was recently laid off and cannot find new work. Just as importantly, these new regulations frustrate the intentions of Congress as set forth under current law.

The underlying policy of the Food Stamp Act is to make sure that everyone has access to nutritional adequacy. Any deviation from this policy would clearly violate the current statutory provisions found in four different sections of the act. Yet, such a deviation is precisely the course followed by the Agriculture Department's new regulations.

By June 1, 1976, the Department will have forced the implementation of a new eligibility standard based on the average poverty line during calendar year 1975, or approximately the poverty line for June 1975. Thus, when the new eligibility standards are first implemented, they will reflect a poverty line that is 12 months out of date. Since the poverty line for 1976 will not be announced until the spring of 1977, the June 1975 poverty line will continue to be used—under the Agriculture Department's newly announced regulations—up until June 1977. Therefore, they will be 2 years out of date when they are used as the food stamp eligibility standard in May 1977. Obviously, households with incomes well below the current poverty line will be disqualified from food stamp assistance.

The poverty line itself is an inadequate measure of a household's ability to obtain nutritional adequacy. Thus, the failure to use a current poverty line—with the result that families with incomes below the poverty line will be ineligible to obtain food stamp aid—clearly demonstrates the unlawfulness of the Agriculture Department's new regulations.

I find it unconscionable that the administration has decided to establish a subpoverty line cutoff for nonpublic assistance families while maintaining an open-ended income eligibility standard for public assistance households. This inequitable treatment will serve only to harm working families while providing higher eligibility standards for households that do not derive their income from gainful employment. This is one clear example of the regulations' unlawful discrimination against the working poor.

Another clear example of the discrimination against working families is contained in the portion of the regulations that would, for the first time, deny working families the right to deduct Federal, State, and local income taxes, as well as social security withholdings, from the food stamp income calculation. As a result of this provision, working families would be eliminated from the food stamp program while nonworking families—with the exact same income, or with even greater incomes—would still receive hundreds upon hundreds of dollars of food stamp aid. Moreover, for working households that remain eligible for food stamp aid, they would receive less food stamp aid than households that do not work and that have the exact same income as those working families.

Clearly these regulations are incredibly inequitable and are very unsound as a matter of social policy. Similarly, they violate the Food Stamp Act. The Food Stamp Act was written so that work would be encouraged and required, not discouraged and penalized; yet these regulations, contrary to the statute, harm families solely because their income is derived from work. Second, the "income" standards of the Food Stamp Act were intended to be based on actually available income, not income that never is made reasonably available to a family. Yet, even though Federal, State, and local income tax withholdings and social security withholdings are never provided to a worker, those withholdings are nevertheless unexplainably included in the income calculation by the new regulations. Moreover, the new regulations compound the injury by also including income tax refunds as income—thereby double counting income taxes in the income calculations.

The most egregious unlawful effect of refusing to deduct income tax and social security withholdings from the income calculation is that many impoverished working families will be deemed to have artificial incomes that overstate their true income situation. As a result, many needy families will be denied food stamp assistance even though they do not have access to nutritional adequacy—a situation that clearly violates the current Food Stamp Act.

The foregoing problems with the new regulations are compounded by the fact that the proposed $100 standard deduction will be implemented in a fashion

that fails to distinguish between the expenses incurred by families in varying situations. For example, working families have higher expenses due to: The cost of transportation to and from work; outlays for child care expenses; as well as purchases for items—like special clothing—needed for work. Current regulations provide deductions to cover these additional expenses. Yet, the new regulations provide the exact same standard deduction for working families that is provided to non-working families. Thus, the new regulations do not realistically reflect poor families' needs to obtain adequate diets, and many working families' will be denied food relief even though they are hungry and malnourished.

Probably the most unconscionable part of the new regulations relates to the 90-day retrospective income accounting and monthly reporting of income scheme that are prescribed. The 90-day retrospective income accounting system would require certification officials to base income calculations on the income received during the 90 days prior to application, regardless of changes in income circumstances and regardless of current income.

Thus, if a household head is laid off, that household would have to wait 90 days before it could apply for food stamp aid on the basis of its current need. Between 30 and 45 days thereafter, that household would receive its food stamp assistance. As a result, food stamp aid based on new income circumstances would only be provided to an unemployed household between 120 and 135 days after its household head lost his or her job.

Similarly, under the monthly income reporting system proposed under the new regulations, food stamp aid would not be provided on the basis of current need. This is how that new system would work: In the first 10 days of April, for example, a participating household would have to report its monthly income for the month of March. That reported March income would be added to that household's income for the months of February and January and, then—in order to arrive at an average monthly income—the sum of those months' incomes would be divided by three. This would provide food stamp administrators with the monthly income calculation for purposes of computing food stamp eligibility in the month of May.

Obviously, this system will entail reams and reams of paperwork, hours upon hours of additional administrative work time, and thousands upon thousands of errors in eligibility and benefit calculations. All of this will cost many millions of dollars in administrative expenses, thereby taking benefits away from poor people and putting that money in the hands of bureaucrats. More importantly, these 90-day retrospective income accounting and monthly reporting of income systems will frustrate the Food Stamp Act's requirements that eligibility and benefit levels be based on current need and income situations. These new systems as set forth in the regulations are completely alien to Congress' intent under the current law.

The regulations also change the so-called work requirement contained in section 5(c) of the act. A new search-for-work requirement—that is vague and provides uneven standards of application—is set forth in the regulations, even though the current unemployment rate is still higher than it was at any time after the Depression. The new search-for-work requirement will be uneven in its administration from State to State, office to office, and even administrator to administrator in the same office. Consequently, it violates the nationally uniform eligibility standards set forth in the Food Stamp Act. In addition, the search-for-work requirement establishes a new eligibility standard that is not included in the specific work eligibility requirements set forth in section 5(c) of the Food Stamp Act, and therefore the new requirement violates the statute.

I am also dismayed by the Agriculture Department's regulation changes that would force a person to take a job—or force that person's household to be eliminated from the food stamp program—even where that job is subject to a strike, or that job will require joining or resigning from a labor union, or that job will jeopardize the worker's health and safety. Currently, refusal to accept or remain on a job due to any of these problems constituted "good cause" for refusing that work. These changes are violative of our intentions under the Food Stamp Act as well as a whole host of laws relating to job safety and health.

Probably the most unreasonable part of the new regulations is the administration's attempt to resurrect its policy of pricing poor people out of the food stamp program. Current law requires that food stamp purchase prices should constitute a "reasonable investment" on the part of eligible households, and this means that food stamp purchase prices should be gaged so that no eligible household is required to pay a purchase price in excess of what it reasonably can afford to pay. The regulations currently in effect, that establish purchase prices at an average 24 percent of adjusted net income, reasonably accomplish the statutory requirement.

Contrary to current law, however, the new regulations would raise food stamp purchase prices from an average 24 percent of adjusted net income to a flat 30 percent of adjusted gross income—a most unreasonable and arbitrary price increase. This new regulation is even worse than the proposal that the President submitted more than a year ago, and that we overwhelmingly rejected; last year's proposal would have increased food stamp purchase prices to 30 percent of adjusted net income.

The increase in food stamp purchase prices will drive scores of needy families out of the food stamp program. Consequently, these regulations violate the "reasonable investment" provision in section 7(b) of the act because they will make the food stamp program inaccessible to eligible, needy families. Poor people simply cannot pay these exorbitant purchase prices.

The new regulations would also eliminate needy minors from the food stamp program if they do not live with people who have an obligation to support them. This regulation would inequitably deprive food stamp aid to a minor who was kicked out of his or her household by unsuitable parents. It would also deny aid to a minor who has set up his or her own family. This change in the regulations clearly violates the Food Stamp Act which establishes specific criteria for determining what constitutes an eligible "household." The new regulation changes these specific criteria in explicit violation of the Food Stamp Act.

In sum, then, these regulations are socially harmful, administratively wasteful and expensive, inequitably discriminatory against working families—and they are unlawful. I hope that the President and the Agriculture Secretary will withdraw these regulations. I also urge my colleagues to adopt the substitute bill that I cosponsored with Senator DOLE and others.

The PRESIDING OFFICER. All time has been yielded back. The pending motion will be stated.

The legislative clerk read as follows:

A motion by the Senator from Kansas (Mr. Dole), that section 401(b) of the Budget Act be suspended with regard to the Food Stamp Reform Act, S. 3136, and with regard to Amendment No. 1571 and any amendments to Amendment No. 1571.

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, in accordance with the previous order the question recurs on the motion of the Senator from Kansas that section 401(b) of the Budget Act be suspended with regard to the Food Stamp Reform Act, S. 3136. 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 Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER), and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. HRUSKA) would vote "nay."

The result was announced—yeas 63, nays 27, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—63

Abourezk	Dole	Inouye
Bayh	Durkin	Javits
Biden	Eagleton	Johnston
Brooke	Ford	Kennedy
Bumpers	Glenn	Laxalt
Burdick	Hart, Gary	Leahy
Byrd, Robert C.	Hart, Philip A.	Long
Cannon	Haskell	Magnuson
Case	Hatfield	Mansfield
Chiles	Hathaway	Mathias
Church	Hollings	McGee
Clark	Huddleston	McGovern
Cranston	Humphrey	McIntyre

Metcalf	Pell	Stevens
Mondale	Percy	Stevenson
Moss	Randolph	Stone
Muskie	Ribicoff	Symington
Nelson	Schweiker	Taft
Nunn	Scott, Hugh	Talmadge
Packwood	Sparkman	Weicker
Pearson	Stafford	Williams

NAYS—27

Allen	Curtis	McClure
Baker	Domenici	Morgan
Bartlett	Eastland	Proxmire
Beall	Fannin	Scott, William L.
Bellmon	Fong	Stennis
Bentsen	Garn	Thurmond
Brock	Goldwater	Tower
Buckley	Griffin	Young
Byrd, Harry F., Jr.	Hansen	
	Helms	

NOT VOTING—10

Culver	Jackson	Roth
Gravel	McClellan	Tunney
Hartke	Montoya	
Hruska	Pastore	

So Mr. DOLE's motion to suspend was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, may I have the attention of the Senate, please?

The PRESIDING OFFICER (Mr. FANNIN). The Senate will be in order.

The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I would like more order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, the joint leadership has given most serious consideration to meeting on Saturday because of the pileup of legislation.

As the Senate is aware, following the disposal of the pending legislation, to be followed by the Helms proposal, it is anticipated that we will then turn to the budget resolution under which there is, under the rule, a 50-hour time limitation. I do not expect 50 hours to be taken up, but there may be considerable hours consumed in debate.

Then, as the Senate knows, we will have I think a conference report on the foreign aid bill, which will cause some discussion, as well as the conference report on the FEC, which might cause further discussion.

We have other important pieces of legislation of which the Senate should be aware, and I wish to impress upon the Senate, if I can, the fact that authorizing legislation which calls for appropriations cannot be considered unless reported by May 15. As a matter of fact, after May 15 this will become an appropriations session, by and large.

The Senate is also aware of the fact that we will be going out on Wednesday next for 4 or 5 days, and that covers the Easter period, and we will not return until about April 27, if my memory serves me correctly.

We will have other important legislation at that time to consider.

I hope that when Senators think of the legislative schedule ahead of us they will also think of the timetables involved.

Furthermore, we have a Democratic convention coming up, which will take a couple of weeks, and a Republican convention in August, which will take less time, and a Labor Day holiday.

[Laughter.]

Mr. GRIFFIN. The Fourth of July.

Mr. MANSFIELD. Well, of course. Wait. During just before the Democratic convention we have the Fourth of July holiday, so that is the reason for the disparity in time.

[Laughter.]

This is the 200th year. We have to observe these matters of immediate interest.

However, after considering the situation carefully, I have decided that it would be most inappropriate to have a session on Saturday. But the Senate can expect to stay in late tonight and late tomorrow and to stay in late next week, if need be, to try to clear off the calendar as much legislation as possible.

That is the only purpose of my asking for the attention of the Senate at this time. I suggest that if Senators have Saturday engagements, they can keep them; but if they have engagements for tonight or tomorrow, I ask that they have second thoughts and act accordingly.

NATIONAL FOOD STAMP REFORM ACT OF 1976

The Senate continued with the consideration of the bill (S. 3136) to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 30 minutes on all amendments, the time to be equally divided between the sponsor of the amendment and the manager of the bill; that on amendments to amendments there be a 20-minute limitation, the time to be equally divided in the same manner; and that would apply, of course, to appeals and motions of various kinds. I ask that the order be in the usual form.

The PRESIDING OFFICER. The Chair asks the Senator from Montana if he intends this to apply to the substitute.

Mr. MANSFIELD. Yes.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. GLENN. I wonder whether we can consider waiving the so-called Bumpers rule which would prohibit morning meeting tomorrow, in this particular case, if the distinguished majority leader would want to consider that, so that we could start earlier tomorrow, with the idea of adjourning earlier tomorrow afternoon, when many of us have travel plans that we cannot break.

Mr. MANSFIELD. Does that meet with the approval of the Senator from Arkansas and the Senator from Colorado?

Mr. BUMPERS. It meets with my approval.

Mr. HASKELL. Mr. President, this meets with my approval, but I hope we will not have any votes tomorrow morning. We are in the middle of conducting hearings, and it is going to be very difficult to conduct hearings. Could we schedule votes for the afternoon and have the session in the morning?

Mr. MANSFIELD. For this one day, due to the pileup on legislation and the approaching recess, I would like to have a complete exception, if I may.

Mr. HASKELL. Very well.

Mr. JAVITS. Mr. President, reserving the right to object, I have an amendment.

Mr. MANSFIELD. There will be a half-hour on all amendments.

Mr. JAVITS. Including an amendment to an amendment?

Mr. MANSFIELD. Twenty minutes on those.

Mr. GRIFFIN. Mr. President, reserving the right to object, is this request in the usual form, so that amendments will have to be germane?

Mr. MANSFIELD. It is.

Mr. JAVITS. Mr. President, reserving the right to object, must an amendment to an amendment be germane, so that the germaneness of the amendment will determine the germaneness of the amendment to the amendment?

The PRESIDING OFFICER. The germaneness is dependent upon what the amendment is offered to. If an amendment is offered to an amendment, it must be germane to the amendment. If an amendment is offered to the bill, it must be germane to the bill.

Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be one-half hour on the bill as well.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 9 a.m. tomorrow.

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

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Wisconsin and ask unanimous consent that what he will propose will not exceed 5 minutes.

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

REFERRAL OF S. 50 TO THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the request I am about to make has been cleared with the chairman of the Committee on Labor and Public Welfare and the ranking member. It has been cleared with the ranking member of the Committee on Banking, Housing, and Urban Affairs.

I ask unanimous consent that if and when the Committee on Labor and Pub-

lic Welfare reports S. 50—that is the Humphrey bill, proposing full employment and balanced growth in 1976, and it is now in the Committee on Labor and Public Welfare—the bill be referred to the Committee on Banking, Housing, and Urban Affairs for a period not to exceed 20 legislative days.

I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I support this request.

This is a very ambitious piece of economic legislation. It would amend the Employment Act of 1946. It would give new responsibility to the Federal Reserve Board. It proposes increasing the flow of credit in selected areas of the economy, all of which are under the jurisdiction of the Committee on Banking, Housing and Urban Affairs.

In addition, this bill deals with many issues raised in S. 2986, the Supplemental Community Development Employment Assistance Act. This bill was introduced by Senator GRIFFIN, and several days of hearings already have been held on it. Therefore, the Committee on Banking, Housing and Urban Affairs should be aware, in my view, of how these two bills mesh with each other.

I support the request of the distinguished chairman of the committee.

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

Mr. PROXMIRE. I yield.

Mr. JAVITS. The Senator said "20 legislative days."

Mr. PROXMIRE. That is correct.

Mr. JAVITS. I do not think the Senator means that. I take it that he means 20 days during which the Senate is in session, because a legislative day could take weeks, sometimes.

Mr. PROXMIRE. We will be happy to amend it to indicate 20 days while the Senate is in session. The Senator is correct.

The PRESIDING OFFICER. Will the Senator from Wisconsin restate his request?

Mr. PROXMIRE. I send the request to the desk. I will restate it.

I ask unanimous consent that if and when the Committee on Labor and Public Welfare reports S. 50, the bill be referred to the Committee on Banking, Housing, and Urban Affairs for a period not to exceed 20 days while the Senate is in session.

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

ALLEN J. ELLENDER FELLOWSHIPS

Mr. HUMPHREY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 491.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 491, to extend support under the joint resolution providing for Allen J. Ellender fellowships to disadvantaged secondary school students, and for other purposes, which was read twice by its title.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

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

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HUMPHREY. Mr. President, this matter has been cleared on the other side of the aisle. The distinguished Senator from New York, who had a "hold" on it, has gone over it and discussed it with me, and I believe there is no objectiton to it.

Mr. JAVITS. Mr. President, will the Senator put into the Record a statement on the matter?

Mr. HUMPHREY. I have a full statement concerning the resolution.

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

Mr. HUMPHREY. I yield.

Mr. GRIFFIN. Will the statement include the makeup of the governing body of the organization that administers this program?

Mr. HUMPHREY. Yes.

Mr. GRIFFIN. I find in the House report, for example, the name of the director of the program, which is good to know, but how is it run and by whom? Is there a board of directors?

Mr. HUMPHREY. Yes. The entire matter, including the charter, will be placed in the Record.

Mr. President, I want to express strong support for House Joint Resolution 491, the companion measure to Senate Joint Resolution 70, which I introduced on April 10, 1975, along with Senators JOHNSTON, BENTSEN, BROOKE, DOLE, DOMENICI, JAVITS, KENNEDY, MAGNUSON, MONDALE, MORGAN, NUNN, PELL, STONE, SYMINGTON, TALMADGE, GLENN, PHILIP HART, WILLIAMS, BROCK, and TOWER.

This joint resolution will extend for 4 additional years, through fiscal year 1980, the Allen J. Ellender Fellowship program which was established by legislation I introduced in the 92d Congress. The proposal adopted by the House would increase the authorization for this fellowship program from the current $500,000 annual appropriation to $750,000 for fiscal years 1977 and 1978 and $1,000,000 for fiscal years 1979 and 1980. The joint resolution removes the current limitation of 1,500 fellowships which can be awarded annually, in order to accommodate the increased funding provided. Finally, an amendment which was added in the House encourages efforts to achieve participation of students and teachers from rural and small town areas, as well as those from urban areas.

The Subcommittee on Elementary, Secondary, and Vocational Education of the House Committee on Education and Labor held a hearing on House Joint Resolution 491 on February 19, 1976. Members of Congress, program administrators, student participants and teachers testified on the benefits of the Ellender Fellowship program and its role in the expansion and success of the Close Up program.

The joint resolution was reported by the full Education and Labor Committee on March 29, 1976, and it was adopted by the House on April 5.

Mr. President, the Allen J. Ellender Fellowship program was instituted to honor the memory of our late beloved colleague and friend, Allen Ellender. No more fitting tribute could be paid to a man who devoted the greater part of his life to public service than to have young people all over the country and their teachers develop into a concerned and participating citizenry.

The Fellowship program, established by Public Law 92–506, provided a modest appropriation of $500,000 for a 3-year period, through fiscal year 1975. Currently the program is under an automatic extension of its authorization pursuant to section 414 of the General Education Provisions Act. Funding will expire on June 30, 1976, unless this important measure is signed into law.

The modest investment made by the Federal Government has yielded positive returns. Over and above its stated purpose of making fellowships available to disadvantaged students and their teachers, these moneys have served as a catalyst to encourage communities, businesses, and other private sources to provide additional assistance to students in need, as well as to encourage participation for students through parental support. In other words, the Close Up Foundation has not simply awarded Ellender Fellowships, but has multiplied Federal funds dramatically to create even more participation in, and understanding of, our democratic process.

Between 1972 and June of 1975, the Federal Government, through the Close Up Foundation, provided more than 4,400 Ellender Fellowships to low-income students and their teachers for participation in the Close Up program. Using the Ellender Fellowships as a fundamental part of its program concept, the Foundation was able to generate private funds to support almost 12,500 additional participants.

For the 1975–76 programs, the Foundation's multiplier effect of community support is even more exemplary. An estimated 1,350 Ellender Fellowships will be awarded for this school year, with more than 9,100 additional students expected to participate through community and parental support.

Taken overall, since 1972, and including 1976 estimates, some 5,757 Ellender Fellowships have been awarded. An additional 22,119 students and teachers have been brought into the program through community and parental support in this same period.

Taken another way, a total Federal investment of $2 million has generated another $8 million in community and parental support, if we include 1976 estimates.

These additional funds have come from large businesses, small merchants, private individuals, service clubs, philanthropic organizations, unions, boards of education, local and national associations, and individual families. They indicate the growing and widespread acceptance of the program, as well as the catalytic effect upon whole communities, as they work together toward a better sense of community and country.

Important as these figures are, Mr. President, they do not begin to reflect adequately the total worth of this fine program to thousands of young people and their educators around the country.

Many of our colleagues in the Senate and in the House have witnessed firsthand the enthusiasm and interest in government which is enhanced by this one-week experience in Washington. By involving entire cities and surrounding communities in this learning experience together, the Close Up Foundation has been able to create a new dimension which has taken the program far beyond the academics of learning about government and politics. The program has also become a great and meaningful human experience, creating a framework where students and teachers from a variety of backgrounds in a community can share common experience.

A recent study conducted by the Social Education Associates under the auspices of the Close Up Foundation and other philanthropic organizations included follow-up interviews with some of these students which reveal the true dimension of the program in developing awareness of government.

I want to share a few of these comments with my colleagues.

At first, I was going back and forth with the idea that politicians were crooks, but after going with Close Up, I see that they are hard-working people being paid for what they do and they really have a lot to do. They really do care and they do read your letters. Like we received a letter in the mail the other day from our congressman wanting to know what our feelings were on 4-5 issues and my Mom was going to throw it away. I said, "No, this is a chance to tell our congressman how we really feel," so I filled it out.

And from another:

I felt before going that the government was so far away and wouldn't listen to any of us. But, after being in Washington, I found that the politicians were really friendly. The congressmen were really interested in hearing what we had to say. I feel that we really have a say in government through our congressmen. I feel that a person's time would be well spent in writing to his congressmen if he wanted something done. I would have written a letter before going to Washington, but I wouldn't have been convinced that it would have really helped, but I am convinced now.

Still another youngster said:

It gave me insights into the fact that the people are the government. I was very apathetic about politics and government before this trip—now I know I will vote and try to express my opinions in any way I can.

What better testimony could be offered to demonstrate the value of our efforts to bring young people closer to their government and to their elected representatives? The Close Up program provides a great service to the young people of this Nation and to all of us who look forward to the day when all of our citizens truly feel a part of our political processes.

I commend my colleagues in both Houses on their expeditious consideration of this important measure.

Mr. JOHNSTON. Mr. President, today the Senate has passed a measure that is relatively small in dollars but tremendously important in its impact. With the Senate approval of a 4-year extension of the Allen Ellender Fellowship program, we have voted for a number of things.

We have voted for the opportunity of American high school students and teachers from across our country to spend time in our Nation's Capital viewing the Federal Government at firsthand. We have voted for a substantive learning experience for more than 10,000 people a year—a learning experience that will greatly enhance one's appreciation of how our American Government works. We have voted for a better informed American youth, who will be prepared to accept their position in communities and in our Nation when the time comes.

I have had a chance to see the Close Up program often since I became a member of the Senate in 1973. It is an excellent example of how to make education exciting. By voting to extend the Ellender Fellowship program, we allow many young people from Louisiana and virtually every other State to see their Federal Government; these are young people who under most circumstances would not have the opportunity to do that. With our vote today, we make a critically important investment in the young men and women who will be our national leaders tomorrow.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

NATIONAL FOOD STAMP REFORM ACT OF 1976

The Senate continued with the consideration of the bill (S. 3136) to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes.

Mr. TALMADGE. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank the distinguished chairman of the Committee on Agriculture for his never-failing courtesy and consideration.

Mr. President, many weeks ago, I made a commitment to speak this evening out of the city of Washington. One of my purposes in doing so is to promote the principles set forth in Senate Joint Resolution 180. I have now learned that instead of a Saturday session, we shall have, probably, a late session tonight. I therefore wish to state that if I were present, I would oppose the adoption of the Dole substitute, or the so-called compromise substitute to the bill. If that prevails, I would oppose passage of it. Also, unless the committee bill is measurably reduced, I would be opposed to that. I want the record so to state.

The PRESIDING OFFICER. The record will so state.

What is the will of the Senate? Who yields time?

Mr. TALMADGE. Mr. President, I think there are some amendments floating around here. If the Senators will propose them, we shall try to dispose of them. If no one proposes an amendment, I am prepared to ask for third reading of the bill.

Mr. BEALL. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BEALL. I ask unanimous consent that a quorum be called and that the time be equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TALMADGE. If the Senator will yield, I wish to make a unanimous-consent request.

Mr. ALLEN. Yes, I yield.

Mr. TALMADGE. Mr. President, on Tuesday, the Senate adopted two amendments to S. 3136. One amendment—proposed by Senator BEALL—was adopted by a vote of 95 to 0, and the other amendment—proposed by Senator FORD—was adopted by a voice vote.

Mr. President, I ask unanimous consent that the pending amendment—amendment No. 1571—be amended by inserting in the appropriate places the two amendments which were adopted by the Senate on Tuesday.

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

Mr. ALLEN. Mr. President, I rise for the purpose of making a motion. I shall withdraw the motion.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I move that the bill under consideration be postponed until April 9 and ask for recognition to speak on the motion.

The PRESIDING OFFICER. The motion is debatable. The Senator is recognized.

Mr. ALLEN. I yield myself such time as I may use.

I shall withdraw this motion before it comes to a vote. I offer the motion for the purpose of giving me an opportunity to speak on a motion to table the pending substitute. I do this to effectively draw the line between those who want a modest reform of the food stamp program and those who want to lift the ceiling off of the cost of the food stamp program.

I wish that more Senators had been here this morning when I was reading the letters from the Department of Agriculture, which now indicate that the substitute bill would add approximately a half billion dollars to the cost of the pres-

ent program. W are supposed to be reforming this program, and that does not mean adding to the cost of the program.

Many Senators took the position that in voting against the motion to waive the provisions of 401(b) of the Budget Act, they were delaying food stamp reform. For that reason, they voted for the motion to waive the provisions of the Budget Act. Many who voted to waive the provisions of the Budget Act do not want to see a half billion dollars added to the cost of the present program. If we are successful in tabling the Dole-McGovern amendment, we shall then fall back to the committee bill, which I support, inadequate as it is, because the same figures from the Department of Agriculture indicate that there actually is no saving in the committee bill. It does have some reforms in that it does take from the upper strata of the economic ladder many who are now on the program and who should not be on the program, and it adds some 500,000, it is estimated, at the lower rungs of the economic ladder to allow them to get the benefits of the program. It increases for them the benefits of the program.

So, Mr. President, if we do not pass any legislation, I say here and now that it is my considered judgment that if the Dole-McGovern amendment passes and that comes out of conference in that fashion, then we are heading for a veto and we are going to have to fall back on the Agriculture rules and regulations, which have been promulgated and go into effect on July 1. So, if we can table this budget busting substitute by Mr. DOLE and Mr. MCGOVERN, we shall fall back on the committee bill, which is, in a sense, a reform bill. It does not save a great deal of money, if any money, but it does close some loopholes and make the benefits of the program available in larger amount to those who need the program the most.

This Dole-McGovern substitute is reform in reverse. It is a nonreform food stamp reform bill. Let us not fool ourselves. In my judgment, the cost of the Dole-McGovern bill would run approximately $7 billion a year and in the next fiscal year, with all of the escalators built into it, there is no telling how high it will go. When the Dole-McGovern substitute is adopted and becomes law, if it should happen to survive a Presidential veto by overriding the veto, and the cost of this program escalates from 6 to 7 to 8 to 9 billion dollars, what are we going to say to our constituents who have asked us to reform this program?

Mr. President, we shall have a fairly good reform bill if we take the committee bill. Here is a bill hammered out by the committee after weeks and months of study, after extensive markup, when most of the provisions of this substitute were rejected by the committee, tossed on the floor of the Agriculture Committee hearing room, and, in effect, bundled up by the proponents of the Dole-McGovern bill and wadded together in a package and dumped into the hopper here.

Mr. President, let us go ahead and reject this nonreform substitute of Mr. DOLE and Mr. MCGOVERN and fall back on the committee bill, have quick action on that, send it to the House, and see if we cannot, in the next few weeks, pound out a bill that will be acceptable to the President, that will receive his signature, that will not be vetoed so that we shall have to fall back on the President's regulations through the Department of Agriculture.

That would be a program of some $8 billion, and I feel like it is not adequate, but I feel like the farthest we should go is the committee bill.

I will certainly recommend that the substitute be tabled when I make that motion so that we can pass the committee bill.

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

Mr. ALLEN. Yes, I yield.

Mr. HELMS. The Senator is entirely correct, and I wish to be associated with his remarks.

The situation here is we have already overridden the Budget Act and now we are preparing to override the Agriculture Committee because the Agriculture Committee rejected most, if not all, of what is contained in the Dole-McGovern substitute, so-called. So I commend the Senator, and I join in in his motion.

Mr. ALLEN. Mr. President, I withdraw my motion to postpone and, instead, I move that the substitute be laid on the table.

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

The PRESIDING OFFICER. The motion is not in order until the time on the substitute has been utilized or yielded back.

Mr. ALLEN. The Senator from Alabama is not entitled to withdraw his motion to postpone?

The PRESIDING OFFICER. Yes, the motion has been withdrawn, but the motion to table is out of order until the time has expired or all time is yielded back.

Mr. ALLEN. Until the time has expired on what?

The PRESIDING OFFICER. On the substitute amendment.

Mr. ALLEN. Very well.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. An amendment to the substitute is not in order until all time is used yielded back on the substitute.

Mr. DOLE. I yield the Senator 3 minutes.

Mr. TALMADGE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TALMADGE. The amendment would not be in order until all time has expired or all time has been yielded back on the substitute.

I will be prepared to yield back all time on the substitute.

Mr. DOLE. I yield back all time on the substitute.

Mr. BEALL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BEALL. Mr. President, it will not be in order to amend the substitute if the substitute is adopted; is that correct?

The PRESIDING OFFICER. The Senator is correct and the Clerk will report the amendment of the Senator from Maryland.

Mr. ALLEN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, would not the motion to table be in order when all time had been yielded back?

The PRESIDING OFFICER. Yes, after all time has been used or yielded back. The Senator from Maryland has been recognized.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

"AUTOMATIC DATA PROCESSING STUDY"

SEC. 22. The Secretary shall conduct a study relating to the current utilization of automatic data processing equipment by States and localities in the administration of the food stamp program, and report his findings to the Congress not later than January 1, 1977. Such study shall include, but not be limited to, the following:

(a) The degree to which States and localities utilize data processing equipment and other computer technology in the administration of the food stamp program;

(b) The effects of such utilization on the delivery of services to qualified recipients;

(c) The net cost impact of such utilization on the program, including the expense of purchase, operation and maintenance of such equipment, and any cost savings which may have resulted because of such utilization;

(d) The degree to which error and fraud have been or may be detected more efficiently through such utilization;

(e) An inventory of existing Federal programs which provide funds for use by States and localities for the purchase, operation and maintenance of such equipment, or the training of personnel to operate or maintain such equipment together with an assessment of the degree of participation of States and localities in such programs;

(f) The degree to which data processing equipment is utilized by States and localities in the administration of other Federal programs concerned with the delivery of services to individuals; and

(g) The desirability of the utilization of data processing equipment or other computer technology in the administration of the food stamp program, and, if such utilization is deemed to be desirable, recommendations relating to the encouragement of greater utilization of such equipment.

Mr. BEALL. Mr. President, I have discussed this amendment with the manager of the bill, and I understand it is acceptable.

Mr. President, my amendment would direct the Secretary of Agriculture to conduct a study relating to the current

utilization of automatic data processing equipment and other computer technology by the States and localities in the administration of the food stamp program.

He would be required to report the findings of such study to the Congress by January 1, 1977, so that we could have the benefit of his work prior to the expiration of the current program on June 30, 1977.

Several weeks ago, in preparation for consideration of this bill, I visited a neighborhood social service center in Baltimore City. The purpose of my visit was to learn firsthand from welfare caseworkers what types of problems plagued such programs as food stamps, public assistance, and medical assistance, among others.

Their No. 1 concern was paperwork. In fact, they presented me with 88 different forms which had to be filled out by each applicant in order to get assistance, beginning with the 10-page "simplified" form, which in my judgment, would have been difficult if not impossible for most people to adequately complete.

But before this process can even begin, the worker must first determine if the individual applicant has ever been known to the department at a prior time. In order to do this, each caseworker in the 22 neighborhood centers in Baltimore City, for example, must call the master file central facility on one of only three telephone lines—which I understand are perpetually busy—and ask verification of an individual's record.

In order for this to occur, the worker at central master file must put the caseworker on hold, and walk over to a tub file containing some 350,000 names, and manually thumb through the files looking for that one particular individual. Hopefully, if among the thousands of Smiths, and Jones, and countless other names she finds the right individual, she must then put that card back in the right place. If she does not, that individual might very well be lost in the system forever.

But for many applicants, this is only the start of their problems with the system. Assuming that the paperwork gets filled out correctly, the worker then forwards their certification to the State data processing operation for issuance of an "authorization to purchase" card. Yet, despite the fact that the recipient is always in dire financial straits, he must wait, sometimes as long as 20 days, for issuance of his ATP card. By that time, his public assistance grant may be already spent, and he is unable to even participate in the food stamp program because he cannot meet the purchase requirements.

Mr. President, in this age of computerization and rapid data processing, I find it unbelievable that States and localities must handle these massive numbers of records manually, rather than electronically. It seems to me that our failure to provide adequate technology to deal with these records is a major contributing factor to error in social programs, and presents an unmatched opportunity for fraud and deception.

The lack of adequate computerization also often works extreme hardship on qualified recipients. The system is just not delivering adequate and timely service to those in desperate need.

My amendment would require the Secretary to investigate the following specific areas:

First, the degree to which States and localities utilize data processing equipment and other computer technology in the administration of the food stamp program.

Second, the effect of such utilization on the delivery of services to qualified recipients.

Third, the net cost impact of such utilization on the food stamp program, particularly any savings which might occur.

Fourth, the degree to which error and fraud have been or may be easily detected through the use of computers.

Fifth, an inventory of existing Federal programs which provide funds to States and localities for such purposes, and an assessment of the levels of participation in such programs.

Sixth, the degree of utilization of ADP technology in other social programs of the Federal Government.

And, seventh, the desirability of such ADP utilization in the food stamp program, and any recommendations relating to the encouragement of greater utilization of such equipment.

I am hopeful that the Senate might adopt this amendment, and authorize this much-needed study.

Mr. TALMADGE. I have discussed this with the Senator, and I believe the amendment is very worthy. We need to utilize computers more, and I think the study of utilization of computers will save the Department money. I urge the Senate to approve the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. TALMADGE. All time is yielded back.

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

The amendment was agreed to.

Mr. ALLEN. Mr. President, I move to lay on the table the Dole-McGovern substitute, and 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.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the rollcall be limited to 10 minutes.

Mr. BEALL. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BEALL. I object.

The PRESIDING OFFICER. The rollcall will take 15 minutes.

The question is on agreeing to the motion of the Senator from Alabama to lay on the table the Dole-McGovern amendment (No. 1571).

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 Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER) and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I further announce that if present and voting, the Senator from Minnesota (Mr. MONDALE), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

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

The result was announced—yeas 31, nays 58, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—31

Allen	Domenici	McClure
Baker	Eastland	Morgan
Bartlett	Fannin	Nunn
Beall	Fong	Proxmire
Bellmon	Garn	Scott, William L.
Bentsen	Goldwater	Sparkman
Brock	Griffin	Stennis
Buckley	Hansen	Thurmond
Byrd, Harry F., Jr.	Helms	Tower
Curtis	Johnston	Young
	Laxalt	

NAYS—58

Abourezk	Haskell	Nelson
Bayh	Hatfield	Packwood
Biden	Hathaway	Pearson
Brooke	Hollings	Pell
Bumpers	Huddleston	Percy
Burdick	Humphrey	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Javits	Schweiker
Case	Kennedy	Scott, Hugh
Chiles	Leahy	Stafford
Church	Long	Stevens
Clark	Magnuson	Stevenson
Cranston	Mansfield	Stone
Dole	Mathias	Symington
Durkin	McGee	Taft
Eagleton	McGovern	Talmadge
Ford	McIntyre	Weicker
Glenn	Metcalf	Williams
Hart, Gary	Moss	
Hart, Philip A.	Muskie	

NOT VOTING—11

Culver	Jackson	Pastore
Gravel	McClellan	Roth
Hartke	Mondale	Tunney
Hruska	Montoya	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. HATFIELD). The Senator from Alabama.

AMENDMENT NO. 1550

Mr. ALLEN. Mr. President, I call up amendment No. 1550.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

Amendments intended to be proposed by Mr. DOLE (for himself, Mr. MCGOVERN, Mr. HUMPHREY, Mr. HUGH SCOTT, Mr. HOLLINGS, Mr. STONE, Mr. HATFIELD, Mr. JAVITS, Mr. CASE, Mr. LEAHY, Mr. CLARK, Mr. PHILIP A. HART, and Mr. KENNEDY):

On page 16, beginning with line 21, strike everything through line 2 on page 23 and insert in lieu thereof the following:

"ELIMINATION OF THE PURCHASE PRICE

"SEC. 6. (a) The first sentence of section 4(a) of the Food Stamp Act, as amended, is amended to read as follows: 'The Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State, including households with one or more elderly members, shall be provided with, through the use of a coupon allotment, an opportunity to obtain a nutritionally adequate diet.'.

"(b) The section head of section 7 of the Food Stamp Act of 1964 is amended by striking out 'AND CHARGES TO BE MADE'.

"(c) Section 7(a) of such Act is amended to read as follows: 'The face value of the coupon allotment which State agencies shall be authorized to issue for any period to any household certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, reduced by an amount equal to 30 per centum of such household's net income. The value of the coupon allotment shall be adjusted semiannually: *Provided*, That the adjustment of the coupon allotment shall be based on changes in the prices of food in the Consumer Price Index published by the Bureau of Labor Statistics in the Department of Labor.'.

"(d) Sections 7(b) and 7(d) of the Act are repealed.

"(e) Section 7(c) is redesignated as 7(b) and the following is deleted: 'which is in excess of the amount charged such household for such allotment'.

"(f)(1) Clause (7) of the second sentence of section 10(e) of the Food Stamp Act of 1964 is amended to read as follows: '(7) notwithstanding any other provision of law, and at the option of the State agency, the institution of procedures under which any household participating in the program shall be entitled to have its coupon allotment distributed to it with any grant or payment to which such household may be entitled under title IV of the Social Security Act; and'.

"(2) Section 10(g) of the Food Stamp Act of 1964 is amended to read as follows:

"'(g) If the Secretary determine that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into a separate account established in the Treasury a sum equal to the face value of any coupon issued as a result of such negligence or fraud. Funds deposited into such account shall be available without fiscal year limitation for the redemption of coupons.'.

"(g)(1) The third sentence of section 16(a) of the Food Stamp Act of 1964 is repealed.

"(2) Subsections (b) and (c) of section 16 of such Act are repealed and subsection (d) is redesignated as subsection (b).".

On page 4, between lines 3 and 4, insert a new subsection as follows:

"(q) The term 'adjusted semiannually' means adjusted effective every January 1, and July 1, to the nearest $1 increment to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics in the Department of Labor for the preceding six months ending September 30, and March 31.".

On page 6, line 23, after the word "households", insert the following: "and adjusted semiannually, except that such adjustment shall be to the nearest $1 increment: *Provided*, That the first such adjustment shall be effective July 1, 1977, and shall reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics for the period from September 30, 1975, to March 31, 1977.".

On page 5, delete lines 7 through 13 and insert in lieu thereof the following:

"(2) The income standards of eligibility in every State (except Alaska and Hawaii) shall be the income poverty guidelines prescribed by the Office of Management and Budget adjusted pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d), as adjusted semiannually: *Provided*, That the first such adjustment of the income poverty guidelines shall be effective July 1, 1977, and shall be made by multiplying the income poverty guidelines in effect as of April 1, 1977, by the changes between the average 1976 Consumer Price Index and the Consumer Price Index for March 1977.".

Mr. ALLEN. Mr. President, how much time is available to my side? Is it 15 minutes?

The PRESIDING OFFICER. The Chair's understanding is that this is offered as an amendment to the bill.

Mr. ALLEN. I suggest the amendment speaks for itself.

The PRESIDING OFFICER. There is 15 minutes to a side.

Mr. ALLEN. I thank the Chair.

Mr. President, this vote that was just had on the motion to table is indeed a significant vote because fewer than two-thirds of the Senators present voted against the motion to table the Dole-McGovern budget busting substitute. That would send a message, it would seem, to the executive department that there is adequate support in the Senate for a true reform bill; that two-thirds of the Members of the Senate do not favor reform of the food stamp program in reverse, which the Dole-McGovern substitute does.

Mr. President, by this vote, however, the Senate has indicated that, as to this program, they are willing to throw fiscal responsibility to the winds, and instead of cutting back on this program they are going to spend an additional $.5 billion, as shown by letters from the Department of Agriculture on this program.

Mr. CURTIS. Mr. President, will the Senator yield right there?

Mr. ALLEN. I yield.

Mr. CURTIS. As the Senator knows, this so-called substitute was in being only a matter of a day or two. Consequently, the estimates have had to be updated right along. It is my information that Mr. Steven Hiemstra, the Economic Analyst at the Department of Agriculture, shows that the Dole-McGovern substitute will add to the cost $923.8 million. It is almost $1 billion.

Mr. ALLEN. I thank the distinguished Senator for this information. Does the Senator wish to continue?

Mr. CURTIS. No. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator.

Now, Mr. President, inasmuch as the Senate has indicated that it wants to take the ceiling off the expenditure at $7.5 billion, based on the Department of Agriculture's figures, and add $.5 billion to the cost of a program that we are supposed to be reforming, what hope are we going to have to reform the Federal bureaucracy?

In response to the public demand for food stamp reform, we very cynically added a half billion dollars to the cost. What kind of reform is that, Mr. President? If we are going to throw caution to the winds, this amendment of the distinguished Senator from Kansas (Mr. DOLE), for himself, Mr. MCGOVERN, Mr. HUMPHREY, Mr. HUGH SCOTT, Mr. HOLLINGS, Mr. STONE, Mr. HATFIELD, Mr. JAVITS, Mr. CASE, Mr. LEAHY, Mr. CLARK, Mr. PHILIP A. HART, and Mr. KENNEDY, which would remove the purchase requirement, ought to come before the Senate for consideration.

I must say I do not support this concept, but I do believe that we need to see if the Senate does want to eliminate the purchase price requirement as proposed in this amendment, which was at the desk.

This is now the amendment of the Senator from Alabama because he called it up, but he is not the author of the amendment. I want to see just how cynical we are going to be in this area. Reform the program? Add a half billion dollars to the cost. Well, I do not think that this purchase price requirement would add more than a billion dollars to the cost. Let us make this thing absolutely sure of a veto.

The President's program, as promulgated by the Agriculture Department, would cost some $4.8 billion. If we do not get a bill that will receive Presidential approval, we are going to fall back on the $4.8 billion program, rather than the some $6 billion program of the committee, or what I believe is at least a $7 billion program of the Dole-McGovern substitute. So I believe, Mr. President, that we ought to have a vote on this purchase price requirement amendment that has been offered. It was offered in committee; it was rejected there, I believe, by a 7-to-7 vote, and if the Senate does not want to go to this purchase price requirement, I would say then an amendment would be in order to knock out the $20 million pilot program that is provided for in the Dole-McGovern substitute for pilot programs providing for no purchase price for food stamps.

That is going to be the condition precedent, more or less, the opening wedge. If the Senate rejects this amendment, they would, I assume, feel that the pilot programs are not necessary, and they would also vote, then, to knock out the section of the substitute that calls for a $20 million pilot program.

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

Mr. DOLE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes, on the Senator's time.

Mr. DOLE. Do I understand that the Senator from Alabama supports the amendment he has introduced?

Mr. ALLEN. No. I stated, if the Senator had been listening, that I do not approve this concept, but I think the Senate is entitled to vote on this issue. The Senator from Kansas did not seem to be inclined to call up the amend-

ment, since it was retained at the desk, and the Senator from Alabama wants to see whether the Senate supports it, after passing a so-called reform bill and reforming in reverse by adding some one-half billion dollars to the cost. That is the purpose in calling up the amendment.

I did not suppose the Senator from Kansas would object to calling up his own amendment.

Mr. DOLE. Will the Senator yield further?

Mr. ALLEN. On the Senator's time.

Mr. DOLE. I think there has been a compromise, and in that compromise we have agreed not to push for elimination of the purchase price.

Mr. ALLEN. The Senator from Alabama is not in on that compromise.

Mr. DOLE. If the Senator from Alabama would like to be a cosponsor, we would like to have him.

Mr. ALLEN. I called up the amendment, so as of now it is my amendment, although I am not the author of it.

I reserve the remainder of my time.

Mr. TALMADGE. Mr. President, I yield back my time. Is the Senator from Alabama ready to vote?

Mr. ALLEN. Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ALLEN. Mr. President, in view of the time limitation that we have imposed on further discussion, 5 minutes is a precious amount of time, and for that reason I would use the remaining 5 minutes.

Mr. President, the Agriculture Committee, acting in response to public demand that the food stamp program be reformed, that the cost be cut back, that abuses be eliminated, worked for several weeks in hearings. We had 2 weeks of hearings that the Senator from Alabama chaired.

The committee then had the matter under consideration for many days—parts of 2 weeks, I believe—in which the bill was marked up, in which many of the amendments embraced in the substitute were considered by the committee and rejected by the committee, and have now been put together in the form of a substitute.

I was somewhat amused by the argument of the distinguished Senator from Kansas (Mr. DOLE) when he was talking about all of these reforms that his substitute accomplished. The reforms, Mr. President, were in the committee bill. Now we have the added loopholes and the liberalization that are in the rest of the substitute that the Senator from Kansas and the Senator from South Dakota have offered.

So, Mr. President, what we are faced with is this: The President, acting through the Department of Agriculture, has promulgated rules and regulations, as the Department is authorized to do, governing the administration of the food stamp program. Those rules and regulations go into effect on July 1, so that ample time is given to Congress to enact reform legislation to cut back on the cost of the present program.

That would eliminate some of the present abuses. That would cut off people who are not entitled to the benefits of the program, and make more benefits available for those who are entitled to the benefits of the program, but we would end up with a net saving to the American taxpayer.

So if Congress can pass legislation that will meet with the President's approval, then that will go into effect, rather than the regulations. The regulations would be effective only to the extent they have not been preempted or modified by the statutory law.

The committee came out with a bill that looked like it was going to save about $630 million; but subsequent estimates have shown that if the saving exists at all, it will be minuscule.

And the distinguished Senator from Kansas in the summary of his substitute conceives that their program will add $389 million to the cost of the committee bill.

The committee bill is a minus figure as far as savings is concerned according to recent figures by the Agriculture Department. I say "recent"—one letter is yesterday and the other one is today. So we are going to reform the program by adding to the cost? Is that what we are going to do?

And, specifically, is this $20 million pilot program necessary, if the Senate decides it does not want to reform the purchase requirement as provided in the Dole-McGovern, so-forth and so-forth amendment No. 1550, which I have called up? So I think it would be interesting to find the view of the Senate with regard to the proposal to eliminate the purchase requirement.

Mr. TAFT. Mr. President, I have long favored a minimum income maintenance approach to welfare programs over the present systems. I favored the original Dole-McGovern amendment which would have eliminated the purchase requirement completely and brought the food stamp program down to a simpler, more realistic and responsible level for the recipients and for the administrators. This approach would have permitted the really poor to participate in the program, and to purchase food and other necessities with the monies available to them, while they would have received a "bonus" amount from the Government to assist them. The program would have helped to restore pride to those who cannot bear to present a food stamp at the grocery store. It would have encouraged families to budget their expenses and learn to plan how they will spend their money, instead of counting on the Federal Government to bail them out with coupons specified for food purchases.

Besides, as it has been said, is it the Government's business to require that $166 be spent on food every month when $30 of that money could be spent on an overdue heating bill? In these days of rising energy costs, cold homes are not rare.

The food stamp program has been filled with too many deductions, and too much abuse. Some people who are presently on food stamps do not have the need for them that the really poor have. The really poor who cannot pay $122 a month for food stamps, do not participate in the program at all. We must cut out the deductions, as this bill does, by instituting a standard deduction of $100 plus $25 for an elderly household.

I support the Dole-McGovern-Talmadge compromise. This food stamp bill will permit more of the most disadvantaged citizens to participate in the program, especially the elderly poor. It tightens many loopholes with the standard deduction. Although the purchase requirement is retained, the purchase price will be reduced to 25 percent of net income. The assets test must be reviewed by the Department of Agriculture and Congress must review it for 60 days. I hope that we will develop a fair limitation that will permit small businessmen and farmers to continue to make a living, but a limitation that will prevent abuse of the system. The work registration requirement is retained from the committee bill.

The pilot project for the elimination of the purchase requirement is an excellent idea. I hope its success will prove to doubters that this approach has merit and should be expanded.

This compromise is one which I hope can be enacted. For years, the public has been screaming about the abuses of the food stamp program. Unfortunately, a few well-publicized cases have led us to fear that abuse was widespread. It was not so much that the law was broken, I think, but that the law allowed deductions from income that were too generous. On the other hand, the high purchase requirements prevented many people on fixed incomes with rising energy and rent costs, from saving the money necessary to purchase food stamps once or twice a month. Hopefully, the 25 percent purchase price in this bill will open the program to more deserving people and the standard deduction system will reserve the food stamp benefits for those who really need them.

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

Mr. ALLEN. I thank the Senator.

Mr. McGOVERN. Mr. President, I move to table the amendment offered by the Senator from Alabama.

Mr. ALLEN. 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 clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER), and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I further announce that, if present

and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

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

The result was announced—yeas 82, nays 5, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—82

Abourezk	Fannin	Morgan
Allen	Fong	Moss
Baker	Ford	Muskie
Bartlett	Garn	Nelson
Bayh	Glenn	Nunn
Bellmon	Goldwater	Packwood
Bentsen	Griffin	Pearson
Biden	Hansen	Pell
Brock	Hart, Gary	Percy
Brooke	Hart, Philip A.	Proxmire
Buckley	Haskell	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Schweiker
Byrd, Harry F., Jr.	Helms	Scott, Hugh
Byrd, Robert C.	Hollings	Scott, William L.
Cannon	Huddleston	Sparkman
Case	Humphrey	Stennis
Chiles	Inouye	Stevens
Church	Javits	Stevenson
Clark	Johnston	Stone
Cranston	Laxalt	Symington
Curtis	Long	Talmadge
Dole	Magnuson	Thurmond
Domenici	Mansfield	Tower
Durkin	Mathias	Weicker
Eagleton	McGee	Williams
Eastland	McGovern	Young
	Mondale	

NAYS—5

Beall	McClure	Taft
Leahy	Stafford	

NOT VOTING—13

Culver	Kennedy	Pastore
Gravel	McClellan	Roth
Hartke	McIntyre	Tunney
Hruska	Metcalf	
Jackson	Montoya	

So the motion to lay on the table amendment No. 1550 was agreed to.

Mr. JAVITS. I wish to make clear, Mr. President, that I have voted in the affirmative on Senator McGOVERN's motion to table Senator ALLEN's amendment to eliminate the purchase requirement because I desire to preserve the integrity of the substitute which I cosponsor.

In a spirit of compromise, I was willing to endorse what I believe to be a good substitute package. On the whole, the Talmadge-Dole-McGovern-Humphrey-Javits-Percy-H. Scott substitute is a viable one. It does not contain everything I set forth in my bill—S. 2840—but is, nevertheless, a measure that provides a nutritionally adequate diet for truly needy American households.

Had I voted against the McGovern motion to table, the entire package we had labored so diligently to build would have fallen apart. We would then have run the risk of a retrogressive bill, much like the original S. 3136. So to preserve this package, I voted in favor of Senator McGOVERN's motion.

It continues to be my opnion that the purchase price requirement is cumbersome and invites fraud and abuse. It adds unnecessarily to administrative costs of the program because of the need to handle large amounts of money used by eligible households to purchase food stamps.

Furthermore, I believe that the purchase requirement is the reason why only half of the eligible households actually participate in the program. But my support of the substitute is far more important to the poor and working poor and must have the priority.

Mr. ALLEN. Mr. President, I call up an amendment that I have sent to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment to Amendment No. 1571: On page 32, line 3, strike out through line 22.

The PRESIDING OFFICER (Mr. GARN). The time for debate is limited to 20 minutes, 10 minutes to a side. Who yields time?

Mr. ALLEN. Mr. President, I yield such time as I may use.

If Senators will turn to page 32 of the substitute, they will see what this amendment does. It strikes out section 21. That is a section that provides for spending $20 million setting up a pilot program, I believe in 10 sections of the country, to try out the system of requiring no purchase price for food stamps. I say that there is very little sentiment in the Senate, quite obviously, for eliminating the purchase price because, Mr. President, by a vote of 82 to 5, the Senate has turned thumbs down on the Dole-McGovern amendment that would have eliminated the purchase price requirement for food stamps.

So, with an 82-to-5 expression of sentiment against eliminating this requirement, why in the world are we going to spend $20 million trying out a program that is so overwhelmingly opposed in the Senate?

Mr. President, on the whole matter of this so-called compromise, whereby the proponents of no reform added cost agreed not to offer this amendment that has been rejected, and which I brought up for the purpose of gettting a vote, those Senators agreed not to offer that amendment, provided support might be given for the rest of their budget-busting substitute.

But it is pretty cynical, Mr. President. They say they will not offer it now, but they do not say about the next time Congress meets. It is quite obvious that setting up these 10 areas where they have pilot programs is going to prove that they need to eliminate the purchase price, so we shall be confronted next year with a bill of that sort. It would have been much better to have confronted the issue head-on here in the Senate as to whether we are going to make this bill a mockery, as we are on the verge of doing, or whether we are going to have a bill that offers some element of food stamp reform.

The Senate has shown very clearly that it is not going to vote against or vote down the Dole-McGovern substitute. They have opted for lifting the ceiling, making of a reform effort a no-reform effort and an increased expenditure effort. So we get all of this added cost and, in the next Congress, they will come back and eliminate the purchase price requirement, after seeing how well it worked in those 10 pilot project areas.

So, Mr. President, since the Senate has voted down the amendment providing for eliminating the purchase price, should we not then eliminate the pilot program costing a mere bagatelle of $20 million? When they institute one of these pilot programs, you know the full program is right in line behind it.

That is the way the food stamp program took over from the commodity program. There was a pilot program, or several pilot programs, and of course they ran it themselves; they concluded that it worked so well that they needed the full thing throughout the country. I am hopeful that we will knock out this section providing for the pilot program.

One thing I might say is that the five purists—and I guess I should have to say they are purists; they voted against tabling the amendment providing for eliminating the purchase price requirement for food stamps—are going to have the advantage of some of the Senators who are supposed to be for that, are supposed to be for eliminating the purchase price requirement. How are they going to explain voting against eliminating the purchase price requirement? So the five purist Senators who voted, who had the political wisdom or astuteness to vote for the elimination of food stamp purchase requirement, are going to be able to say, "Well, I was for it; I was for eliminating the purchase price requirement. Those other fellows in the Senate, they would not allow us to eliminate that requirement." So these Senators who failed to vote for that, even though their name is on the bill—how are they going to explain that to the hunger lobby, the nutrition lobby, that is so strong for its elimination?

Now, a couple of years from now when some of these fellows are running for President, and they pull out the CONGRESSIONAL RECORD and ask, "How did you vote, Senator McGOVERN; how did you vote on this elimination of the purchase requirement?" I see here in the CONGRESSIONAL RECORD, and the Senator will recall——

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

Mr. ALLEN. I cited the 1969 CONGRESSIONAL RECORD on the Senator's missing his calculations on the cost of the food stamp program in Puerto Rico, so I am afraid in the future when these various candidates are running for President they are going to pull the CONGRESSIONAL RECORD and say, "Well, look, you did not vote to eliminate food stamp requirements." I have got a solution to that. This amendment that I offered was to the bill itself. It was the Dole-McGovern amendment. I just called it up, as I have a right to do, because the amendments on the table belong to any Senator, and I had a right to bring it up.

Mr. McGOVERN. Mr. President, will the Senator yield at that point?

Mr. ALLEN. I want to finish one more point, and if I have time I will be glad to yield. I will yield on the Senator's time in any event, but I have a solution to

this problem of those who did not get on the bandwagon with the purist fire, who did vote to eliminate the purchase price requirement.

I can offer the same amendment to the substitute and give Senator DOLE and Senator MCGOVERN and others an opportunity——

Mr. HUMPHREY. Do not forget me.

Mr. ALLEN. And Senator HUMPHREY an opportunity to get on the bandwagon and vote to eliminate the purchase price requirement.

I think he ought to have a right to change his vote on this and, in all likelihood, I will offer the amendment again to see how we fare, and then the Senator could vote for it the next time, and he would be certainly in character voting on both sides of the same question, I might say to the distinguished Senator from Minnesota. He would have an opportunity to vote "No" a minute ago; "Yes" to table a minute ago, and then he could vote against tabling on the next time we have the issue up.

Mr. HUMPHREY. Mr. President, will the Senator yield on that point just for a modest observation?

Mr. ALLEN. Yes. I promised to yield first to the distinguished Senator from South Dakota.

Mr. HUMPHREY. I want to say to the Senator I do have friends on both sides.

Mr. ALLEN. And you are for your friends.

Mr. HUMPHREY. And I like to support my friends.

[Laughter.]

Mr. ALLEN. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). The Senator's time has expired.

Who yields time?

Mr. MCGOVERN. Mr. President, will the Senator yield to me on my time? Since we are putting a very high premium on charity here this afternoon, I am somewhat puzzled at the Senator's calling up an amendment and then 15 minutes later voting to table the amendment he just called up. At least I waited a rather respectable period of time to do a little reflecting on it.

The Senator talked so much about the enormous cost of eliminating the purchase plan that I had begun to think maybe it might be better to spend a little money to try this out on a pilot basis first before we rush into something that the Senator from Alabama said would break the Treasury.

Now, what we have before us is a modest investment, only a tiny fraction of what the Senator said it would cost to eliminate the purchase price.

Mr. ALLEN. Well, the Senator from Alabama has not made any comment on that at all, not at all.

Mr. MCGOVERN. The Senator would agree that $20 million is insignificant compared to what he said the elimination of the purchase price would cost us.

Mr. ALLEN. I made no comment whatsoever on that.

Mr. MCGOVERN. While we are being pure I think the way to be pure is to stay with this very modest investment. Let us try out this elimination of the purchase price on a small, economical basis, and then if it works we will have plenty of time to debate that and decide whether to go ahead on it. If it does not work, why, we ought to abandon the effort. That is all we are asking for.

Mr. ALLEN. I thank the distinguished Senator for his question, if it, in fact, was a question. But I will say to the Senator that the Senator from Alabama stated when he called up the amendment——

The PRESIDING OFICER. Who yields time? The time of the Senator from Alabama has expired.

Mr. ALLEN. The Senator said he would question me on my time, and I am now trying to answer him on his time.

Mr. TALMADGE. How much time does the Senator require?

Mr. ALLEN. Two minutes.

Mr. TALMADGE. I yield 2 minutes.

Mr. ALLEN. I thank the distinguished chairman of the committee.

The Senator from Alabama stated when the amendment was called up that he opposed this concept but that he felt since this had been considered in the committee and since the amendment was at the desk, and since some Senators did favor this concept, the Senator from Alabama thought we should gage the sentiment of the Senate on this issue. We have done that. I led off the rollcall here with a resounding "aye" on tabling the amendment. The amendment is a printed amendment, and it has the names of Senator DOLE and Senator MCGOVERN as authors.

Well, the Senator from Alabama made no secret about the fact he was against it, but I did want to gage and weigh the sentiment here in the Senate in favor of this proposal. I was delighted when the vote was found to be 82 to 5.

So, that being the case, there does not seem to be a great deal of need in having a $20 million pilot program.

The PRESIDING OFFICER. Who yields?

Mr. FORD. May I have 1 minute?

Mr. TALMADGE. I yield 1 minute, and then I yield back the remainder of my time.

Mr. FORD. The Senator from Alabama has made a great effort here in talking about the 80-to-5 vote. I am very proud that the men in the Senate keep their word. A compromise had been struck. Those who would like to see the elimination of the purchase agreement in this legislation agreed on something and, therefore, they voted, and their vote indicates that today they are keeping their word. I just want that point made because there is a great exercise here to make a point which I would like to refute just a little.

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

ADDITIONAL STATEMENT ON ALLEN AMENDMENT

Mr. DOLE. If all elements of the food stamp reform debate agree that families living below the poverty level should qualify for food stamps, I wonder why we should raise artificial barriers to their actual participation? I refer specifically to the food stamp purchase requirement—which forces eligible families to pay a portion of their income in order to obtain a full allotment of food stamps. Conceptually, I understand the logic of requiring a recipient household to put up some of its own money to obtain assistance. In practice, however, the purchase requirement serves as a barrier to participation by low income households who cannot raise the money required to obtain their allotment of food stamps.

In fact, 50 percent of those who live below the poverty level do not participate in the food stamp program. There may be many reasons for this nonparticipation. For one reason or another, many of these low-income families may not wish to receive Government food assistance. But some of these nonparticipants, including many impoverished aged, blind, and disabled—supplementary security income recipients—would like to receive food stamps. In case after case, one major obstacle to their participation exists—the purchase requirement.

I believe that eliminating the purchase requirement has great merit. For example, a family of four with $250 net monthly income would receive, without payment, $91 in food stamps under the elimination of the purchase requirement. Under the committee bill, the same family would pay $69 to obtain a $166 allotment of food stamps, thus receiving a net benefit of $97. While the benefit level under the elimination of the purchase requirement plan is slightly lower, many low income families who cannot now raise the purchase price will be able to participate in the program.

In addition to permitting more of our extremely poor citizens to receive nutritional assistance, elimination of the purchase requirement will have other beneficial consequences:

(1) Substantial administrative costs would be eliminated. Currently, it costs between 50c and $1.10 for every transaction involving the exchange of money for food stamps. With millions of these transactions each month, the cost to the federal (and state) governments runs into the hundreds of millions of dollars each year. As much as $50 to $100 million in administrative costs could be saved.

(2) Vendor fraud would be completely eliminated since there would be no vendors! (Vendor fraud has already cost the taxpayers nearly $7 million and the imposition of criminal penalties alone will not deter all fraudulent activities.)

(3) Over 40% of food stamps in circulation would be eliminated, thus reducing the burden on both issuing and redemption agencies.

(4) The black marketing of food stamps would be substantially curtailed since there would be far fewer stamps in circulation and because most people engaging in black marketing would no longer feel a need to convert some of their stamps to cash for use on other items.

(5) The variable purchase option and attendant administrative confusion would be eliminated.

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

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

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I move to lay on the table the amendment of the Senator from Alabama.

Mr. ALLEN. 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 of the Senator from Kansas to lay on the table the amendment of the Senator from Alabama. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent. I further announce that the Senator from Iowa (Mr. CULVER) and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Washington (Mr. JACKSON), and the Senator from Minnestota (Mr. MONDALE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), and the Senator from Nebraska (Mr. HRUSKA), are necessarily absent.

The result was announced—yeas 63, nays 22, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—63

Abourezk	Hart, Gary	Nelson
Baker	Hart, Philip A.	Nunn
Bayh	Haskell	Packwood
Beall	Hatfield	Pearson
Bentsen	Hathaway	Pell
Biden	Hollings	Percy
Brooke	Huddleston	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Johnston	Roth
Cannon	Kennedy	Schweiker
Case	Leahy	Scott, Hugh
Chiles	Long	Stafford
Church	Magnuson	Stevens
Clark	Mansfield	Stevenson
Cranston	Mathias	Stone
Dole	McGee	Symington
Durkin	McGovern	Taft
Eagleton	Morgan	Talmadge
Ford	Moss	Weicker
Glenn	Muskie	Williams

NAYS—22

Allen	Fong	Metcalf
Bartlett	Garn	Scott, William L.
Buckley	Goldwater	Sparkman
Byrd, Harry F., Jr.	Griffin	Stennis
Domenici	Hansen	Thurmond
Eastland	Helms	Tower
Fannin	Laxalt	Young
	McClure	

NOT VOTING—15

Bellmon	Hartke	McIntyre
Brock	Hruska	Mondale
Culver	Inouye	Montoya
Curtis	Jackson	Pastore
Gravel	McClellan	Tunney

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

The PRESIDING OFFICER. The Senator from Florida.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) on behalf of himself and Senator NUNN proposes an amendment to the Dole amendment in the nature of a substitute.

Mr. CHILES. Mr. President, I request unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 13, line 16, strike out "(i)" and insert in lieu thereof "(j)".

On page 16, line 5, strike out the quotation marks and the second period.

On page 16, between lines 5 and 6, insert the following:

"(k)(1) Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education and Welfare shall develop a system by which, to the greatest extent feasible, a single interview shall be conducted to determine eligibility for the Food Stamp Program and for the supplemental security income program under title XVI of the Social Security Act or the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act. To the greatest extent feasible, eligibility determination forms for food stamp applicants who are recipients of, or applicants for, benefits under those programs shall not include information collected for those programs.

"(2) The Secretary, in consultation and cooperation with the Secretary of Health, Education and Welfare, shall formulate and submit to the Congress, within ninety days after the date of enactment of this paragraph, a proposal for a nutritional status monitoring system. The Secretary shall also submit recommendations for such legislation as may be necessary to carry out such proposal."

On page 30, line 11, before the word "PILOT" insert "QUALITY CONTROL; ANNUAL EVALUATION PLAN; ANNUAL REPORT;".

On page 30, lines 14 and 15, strike out "new sections 18 through 21 as follows" and insert in lieu thereof "the following new sections:

"QUALITY CONTROL AND ADMINISTRATIVE EFFICIENCY

"SEC. 18. (a) The Secretary shall establish a realistic set of national error tolerance level goals to improve Quality Control and Administrative efficiency under this Act. Separate goals shall be set with regard to:

1. overissuance of bonus value of food stamps or undercharge of purchase requirement for households which fail to meet basic program eligibility requirements;

2. overissuance of bonus value of food stamps or undercharge of purchase requirement for eligible households;

3. bonus value of stamps under-issued or overcharge of purchase requirement to eligible households;

4. invalid decisions to certify or deny eligibility.

Interim tolerance levels shall be established for achievement at the end of 1 year, 2 years and 5 years following the date of enactment of this section.

"(b)(1) Each State shall be required to develop and submit to the Secretary for approval, as a part of the plan of operation required to be submitted under section 10(e), a Quality Control Plan for the State which shall specify the actions such State proposes to take in order to meet the error tolerance goals established by the Secretary. The Quality Control Plan for any State shall specify the anticipated caseload work for the coming year and the manpower requirements needed and the specific administrative mechanisms proposed to be used to carry out the food stamp program in such State and to meet the error tolerance goals established by the Secretary.

"(2) The Secretary shall approve any Quality Control Plan submitted by any State if he determines such plan will achieve the goals established.

"(3) The Quality Control Program for any State shall also be required to include plans for a comprehensive program of training for all certification workers who will be engaged in implementing the certification regulations provided for under section 5(b) of this Act.

"(4) Any training program approved by the Secretary as part of a Quality Control Program for any State shall be maintained on a continuing basis to insure a satisfactory performance level for all new workers engaged in carrying out the food stamp program in such State.

"(5) As used in this section, the term 'quality control' means monitoring and correcting the rate of errors committed in determining the correct level of benefits to be provided households upon certification of their eligibility.

"ANNUAL EVALUATION PLAN

"SEC. 19. (a) The Secretary shall prepare and submit to the Congress, at the same time the President submits his budget to the Congress each year, an Annual Evaluation Plan setting forth the Department of Agriculture's plans for evaluating the major objectives of the food stamp program, the extent to which such objectives are being achieved, and the cost and time requirements for carrying out such plans.

"(b) The Secretary shall indicate in his Annual Evaluation Plan the issues and objectives to be evaluated. Such issues and objectives shall specifically include—

"(1) the nutritional intake of the individuals participating in the food stamp program;

"(2) the relative fairness of the food stamp program between different income levels and age groups;

"(3) the relative fairness of the food stamp program as between different regions of the United States;

"(4) an evaluation of the success of the outreach programs; and

"(5) an evaluation of any other issues and objectives specified by the Secretary.

"ANNUAL REPORT TO CONGRESS

"SEC. 20. The Secretary shall prepare and submit to the Congress, at the same time the President submits his budget to the Congress each year, a report entitled 'Annual Report on the Food Stamp Program'. The Secretary shall include in such report—

"(1) a summary of the achievements, failures, and problems of the States in meeting the quality control goals established under section 18 of this Act;

"(2) recommendations for an analysis of quality control goals for the next 1, 2, and 5 year periods;

"(3) a summary of all evaluation activities conducted by the Department of Agriculture in accordance with the Annual Evaluation Plan provided for in section 19 of this Act;

"(4) recommendations for program modifications based upon an analysis of quality control and evaluation information;

"(5) recommendations for any additional issues for evaluation; and

"(6) such other recommendations for legislative or administrative action as the Secretary may deem appropriate."

On page 30, line 17, strike out "SEC. 18" and insert in lieu thereof "SEC. 21".

On page 30, line 24, strike out "21" and insert in lieu thereof "24".

On page 31, line 4, strike out "SEC. 19" and insert in lieu thereof "SEC. 22".

On page 31, line 19, strike out "SEC. 20" an insert in lieu thereof "SEC. 23".

On page 32, line 5, strike out "SEC. 21" and insert in lieu thereof "SEC. 24".

On page 7, beginning with line 21, strike out all down through "(iii)" in line 24, and insert in lieu thereof the following: "an additional deduction of $50 a month for any household in which there is at least one member who is age sixty or older; (iii) an additional deduction of $25 a month for any household in which there is at least one member who has at least $150 a month in earned income; and (iv)".

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield myself such time as I may need to discuss the amendment.

Mr. President, this amendment would provide for additional time for quality control in the food stamp program that we are now considering.

Right now there is approximately a 19-percent overpayment——

The PRESIDING OFFICER. The Senator will suspend.

The Senate will be in order. The Senator is entitled to be heard.

The Senator may proceed.

Mr. CHILES. Right now there is approximately a 19-percent overpayment of the bonus stamps to recipients. If we could reduce that figure to a level of 5 percent we could effect savings of some $860 million.

We discussed this provision in the Budget Committee. The Budget Committee last year in its act mandated reform in the food stamp area which was the basis on which many of us who serve on the Budget Committee felt that we certainly acceded to the waiver of the Budget Committee access time in that we had mandated that there be some savings reform in the food stamp area.

Now the Committee on Agriculture has come out with a bill attempting to reform the area. This gives us an opportunity to try to effect all of the savings that we can by virtue of quality control. That is the purpose of this amendment.

The amendment would require the administrator to come out with a simplified form to try to cut the whole process that they are going through in regard to qualifying people. Now with the other provisions in the Act, which set forth that they will go to the standard deduction rather than the itemized deduction, there is a great opportunity for savings.

Mr. TALMADGE. Will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. TALMADGE. I had the opportunity to study the amendment and discuss it with the Senator from Florida. It amplifies what the Committee on Agriculture and Forestry inserted in the bill—that is, quality control. That is one of the problems, as the Senator knows, because there have been too many people getting on the rolls who were not entitled to, and sometimes too many people getting too much of a bonus.

The committee bill provides a penalty that the Secretary could impose upon the States that did not come within those quality control standards. I believe what the Senator has proposed, added to what is already in the committee bill, is a good amendment, and I urge the Senate to agree to it.

Mr. DOLE. Will the Senator yield?

Mr. TALMADGE. I yield.

Mr. DOLE. I have discussed the amendment with the distinguished Senator from Florida and heard it discussed in the Budget Committee. I believe it does add to the quality control strengths now in the substitute, and I hope the Senate will accept it.

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

The PRESIDING OFFICER. Does the Senator from Florida yield his time?

Mr. CHILES. I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I commend the Senator from Florida (Mr. CHILES) on his quality control amendment. The Senator has held hearings on the food stamp program, and has devoted particular attention to the quality control area.

Mr. CHILES' amendment would provide for goals that the States and USDA could work toward in lowering the number of errors they make. It is appropriate that these goals be set in terms of bonus dollars rather than in terms of cases. Some so-called errors involve nothing more than a lack of a signature on an application or a caseworker's worksheet. Others involve significant amounts of money.

I note that Mr. CHILES' amendment would set a goal, to be determined after appropriate study, on bonus dollars overissued to households that fail to meet basic program eligibility requirements. The Senator from Florida has framed this provision well. Clearly, if a household has income over the eligibility limits, it has failed to meet the basic eligibility requirements, and any bonus dollars issued to such a household have been overissued. On the other hand, if a household's file contains an "administrative complexity" area—such as a lack of a signature or the lack of a work registration card—then the bonus dollars issued to such a household cannot be said to have been overissued because correction of the error would result in no change in the household's proper benefits.

This use of a distinct category for ineligibility due to failure to meet basic program eligibility requirements is something USDA has done for some time. It is an appropriate category, and it signifies the most serious type of food stamp error. Mr. CHILES has written his amendment to focus, in part, on this category of error.

Mr. CHILES' amendment would also set goals for bonus dollars overissued to eligible households, for bonus dollars underissued to eligible households, and for the percentage of cases that resulted in improper terminations or denials.

In addition, I note that Mr. CHILES is not interested simply in setting goals. He sets out a whole program for actually reaching these goals at the end of a number of years. USDA would set interim tolerance levels for achievement by States at the end of 1, 2, and 5 years. Separate levels would be set for each State based on what is reasonable for each State to achieve. The Secretary would require States to submit plans annually that involve major training programs for certification workers so that the number of errors may be reduced.

The Chiles amendment would tie in with a provision already present in the substitute bill that allows the Secretary to withhold up to 10 percent of the Federal share of the State's administrative costs if the State substantially fails to comply with the State plan.

Thus, if the Secretary found that a State was not faithfully implementing its quality control plan, he could place a penalty on the State. This penalty would not result from a simple failure by a State to meet an interim tolerance level goal, but from a finding by the Secretary that the State had not made a good faith effort to comply with its own plan.

It is important that State plans not merely be pieces of paper. They must be carried out.

Mr. President, I commend the Senator for his amendment. As he originally offered it, some of the State administrators felt there would be some difficulty in carrying it out. But the Senator has taken that into consideration and has modified the amendment. I think it is a thoughtful and prudent way to tighten up the program and give it better administration and answer some of the criticism. I hope the amendment will be adopted.

Mr. CHILES. I thank the Senators. I believe there is an opportunity to effect savings of at least $400 million by quality control, getting to the tightest quality control that we would be able to get. I believe this amendment would help in doing that.

I think it also provides a flexibility of State plans in order to carry out this role.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida (Mr. CHILES).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ALLEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment as follows:

Amend the Dole-McGovern substitute amendment as follows: on page 18, line 23, strike "25" and insert in lieu thereof "27½".

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this simple amendment would save the taxpayers of

the country some $330 million a year. I do not know whether Senators are interested in making that saving or not, but they are going to have the opportunity.

If Senators will note the summary of the Dole-McGovern substitute, on page 7 it explains the various items of cost of various substitute bills. The committee, in considering this matter, found that, as most Senators know, households now pay 30 percent of their net income for the stamps.

Mr. McGOVERN. Mr. President, will the Senator yield on that point, on my time? I would like to correct the Senator on that. I think if he will reconsider it, the average family now pays between 23 and 24 percent.

Mr. ALLEN. Yes; that is the reason why I corrected my statement, that they are supposed to pay, those who pay pay up to—they are supposed to pay 30 percent, but some do not pay anything. That is the reason why the average goes down.

Mr. McGOVERN. If the Senator will yield, 30 percent is the absolute maximum by law.

Mr. ALLEN. That is correct.

Mr. McGOVERN. It was never intended to be the average. As the Senator knows, last year when the Secretary attempted to change the law by administrative fiat instead of by legislation, the Senate overruled him by an enormous margin. So it is incorrect to refer to the cost that the law intended as an average 30 percent payment. That is the absolute maximum. The average is somewhere between 23 and 24 percent.

The committee bill set that at 27.5 percent. The substitute sets it at 25 percent. Both of them are still above the average of current practice.

Mr. ALLEN. Yes. Of course, the average comes about, as I stated, from the fact that many pay nothing; they get free stamps, and that is figured into the average that they all pay, so obviously a no-payment would bring down the average cost. But the committee had submitted to it by the distinguished Senator from South Dakota a proposal to lower it to the 25 percent that his substitute now provides, and that amendment was not agreed to; and as more or less a compromise, as a matter of fact, I made the proposal myself that it be set at 27½ percent, and that motion carried by a substantial margin there in the committee, as I understand it.

So the committee bill provides for 27½ percent of the net income after all deductions as the cost of the food stamps. But many, by getting the $100 standard deduction plus other methods of reducing the income, exclusions from income and the like, do not have to pay any amount.

The drop from the committee figure—which was a saving to the recipients—down to 27½ percent was the committee approach. The Dole-McGovern substitute changes that to 25 percent, and by doing that, costs the taxpayers an additional $330 million.

We know that the Dole-McGovern substitute is going to cost the taxpayers hundreds of millions of dollars, as I have pointed out time and time again here on the floor. If we adopt this amendment, it would reduce the amount of the increase in the cost of this program by $330 million, and still would give the food stamp recipients a reduction from the present figure.

So we do not have to go all the way. We do not have to go overboard, and reduce the amount $660 million. Why not be satisfied with a reduction from 30 percent down to 27.5 percent? That is what the amendment that I have offered would do, and I hope that the proponents of the Dole-McGovern substitute, does not have a chance in the world of becoming law. If we can reduce the cost somewhat, we might possibly have a bill that could possibly be approved by the President, and that will prevent this $4.8 billion program from going into effect—the program that the Agriculture Department, at the instance of the President, has ordered to go into effect July 1. That is a $4.8 billion program, and I feel that the Dole-McGovern substitute will provide for a program of $6.5 billion up to $7 billion.

If we reach out for too much, we will end up with nothing. We will end up with the President's figure rather than the figure in the committee bill. It looks like the view of the Senate that we are going to take the Dole-McGovern substitute, but I feel that those who have been supporting the Dole-McGovern substitute should relax what they are reaching out for, just be a little less insistent on making this a no-reform food stamp bill, and get down somewhere in the neighborhood of the present cost.

I do not say that this gets close to the present cost, but by eliminating $330 million we would have a bill that is somewhat of an improvement over the present program, because obviously it does lop off from the program more than a million people who are not entitled to the program, and provides more benefits for those who need the benefits of the program.

I predict that this Dole-McGovern bill will not become law unless some effort is made to minimize the added cost of the program.

Moreover, I do not think we can go to the people and say we have reformed the food stamp program if the program that we enact is costing a half-billion dollars more than the present program. What kind of reform is that?

I reserve the remainder of my time.

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

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

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

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. ALLEN. 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 to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN). On this question, 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 Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. MONTOYA) and the Senator from Iowa (Mr. CULVER) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. MONDALE), and the Senator from Rhode Island (Mr. PASTORE), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), and the Senator from Nebraska (Mr. HRUSKA) are necessarily absent.

The result was announced—yeas 52, nays 29, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—52

Abourezk	Haskell	Muskie
Bayh	Hatfield	Nelson
Biden	Hathaway	Pearson
Brooke	Hollings	Pell
Bumpers	Huddleston	Percy
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Javits	Randolph
Cannon	Kennedy	Ribicoff
Case	Leahy	Schweiker
Chiles	Long	Scott, Hugh
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevens
Dole	Mathias	Stevenson
Durkin	McGee	Stone
Eagleton	McGovern	Talmadge
Ford	Morgan	Weicker
Glenn	Moss	Williams
Hart, Philip A.		

NAYS—29

Allen	Garn	Packwood
Baker	Goldwater	Roth
Bartlett	Griffin	Scott,
Beall	Hansen	William L.
Bentsen	Helms	Sparkman
Byrd,	Johnston	Stennis
Harry F., Jr.	Laxalt	Taft
Domenici	McClure	Thurmond
Eastland	Metcalf	Tower
Fannin	Nunn	Young
Fong		

NOT VOTING—19

Bellmon	Hart, Gary	Mondale
Brock	Hartke	Montoya
Buckley	Hruska	Pastore
Church	Inouye	Symington
Culver	Jackson	Tunney
Curtis	McClellan	
Gravel	McIntyre	

So the motion to lay on the table Mr. ALLEN's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ALLEN. Mr. President, I call up an amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

Add at the end of the Dole-McGovern substitute amendment (No. 1571) the following new sections:

"SEC. 14. The term 'per capita bonus value' when used with respect to any one of the fifty States, Puerto Rico, the Virgin Islands, or Guam means the sum of the face value of all coupon allotments issued during one month within such State, Commonwealth, or Territory minus the sum of all cash payments made within such State, Commonwealth, or Territory during such month for the purchase of food stamps divided by the population of such State, Commonwealth, or Territory, as determined by the latest Bureau of the Census data available at the beginning of such month.

"SEC. 15. The term 'national per capita bonus value' means the sum of the face value of all coupon allotments issued in all fifty States, Puerto Rico, the Virgin Islands, and Guam during the then last ended fiscal year (excluding any transitional quarter) minus the sum of all funds received into the Treasury of the United States during such fiscal year as receipts from the sale of food stamps divided by twelve times the population of all fifty States, Puerto Rico, the Virgin Islands, and Guam, as determined by the latest Bureau of the Census data available at the beginning of such fiscal year."

"SEC. 16. In no event, notwithstanding any provision of this Act to the contrary, shall the Secretary, when making any semiannual adjustment required herein, fix the face value of coupon allotments (and the purchase price thereof) to be issued during any month in any one of the fifty States, Puerto Rico, the Virgin Islands, or Guam in excess of amounts which, based in the latest data available to the Secretary, would reasonably be expected to cause the per capita bonus value within such State, Commonwealth, or Territory during any month to exceed four times the national per capita bonus value: *Provided*, That any State, Commonwealth, or Territory may at its election and solely from its own revenues pay semiannually into the Treasury of the United States in advance of any six months for which such payment is made an amount determined by the Secretary which, based on the latest data available to the Secretary, would reasonably be expected to equal the cost to be incurred by the United States during such six months (excluding administrative cost) should the face value of coupon allotments within such State, Commonwealth, or Territory be fixed at amounts sufficient to allow participating households to purchase a diet as defined in section 3(o) minus the cost to be incurred by the United States during such six months (excluding administrative cost) should the face value of coupon allotments (and the purchase price thereof) be fixed in accordance with the requirements of this section, and in the event such payment is made, the Secretary shall fix the face value of coupon allotments (and the purchase price thereof) to be issued during such six months within such State, Commonwealth, or Territory at amounts sufficient to allow participating households to purchase a diet as defined in section 3(o).".

"SEC. 17. In no event shall payment be made for any error contained in, arising from, or made in connection with any semiannual adjustment required by the provisions of section 16 hereof.".

Mr. ALLEN. Mr. President, this may be my last amendment, if I may have a little additional time to discuss it, because it is a very important amendment.

I offer this amendment with considerable reluctance and a degree of sadness, for that matter. During the time we had this matter before the subcommittee of the Committee on Agriculture and Forestry which I had the honor to chair, we were studying some of the abuses of the program, and they are considerable. We discovered that of this program costing the American taxpayers some $6 billion as of this time, approximately one-tenth, some $600 million, was being spent in Puerto Rico, an island of approximately 3 million inhabitants.

We found that the food stamp recipients there were receiving and are receiving eight times the average amount received by food stamp recipients in this country. What this amendment does is provide that the inhabitants of no State or territory or possession should receive per capita more than 400 percent of the national average in each State per recipient, or throughout the whole country. So this amendment provides that the limit that can be received in any State or territory is four times as much as the average American citizen receives.

Mr. President, the precedent for action of this sort is contained in the substitute itself, because they provide—I believe that in Puerto Rico, the average deduction is $33 per month and the substitute of Mr. DOLE and Mr. MCGOVERN cuts the standard deduction from $100 that we have here in this country down to $60 in Puerto Rico, a saving of $52 million. So they recognize that there is something of a ripoff taking place here. I felt that it is my duty to bring this matter to the attention of the Senate.

Mr. President, the Washington Post had something to say about this amendment at the time that I planned to offer it at three times the amount of the national average. The Post erroneously states that the present average benefit per household on the island is 23 cents per person per meal. This amount is patently erroneous if the present benefit rate of $600 million per year is divided by the number of participants a month—$1.5 million times 365 times 3. The result of that equation is 36.5 cents in the form of subsidy alone. This amendment, as it was written at the time of the Post editorial, would provide a subsidy of approximately $325 million throughout the island. That annual subsidy would produce a per-meal susbidy of 20.1 cents, whereas the article stated that the amendment would reduce it to 12 cents per meal per person. Under the amendment that has been called up, the subsidy granted would be 24.3 cents per person per meal, or 1.3 cents higher than the Post states Puerto Ricans are presently receiving.

So, under the present amendment, there would be more per person per meal provided as a subsidy than the Post editorial said is now provided under the present benefit.

I am also a little bit taken aback by this editorial. I ask unanimous consent that it be printed in the RECORD. It is an editorial of April 1, 1976.

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

FIXING FOOD STAMPS

Every so often, an issue comes along that requires no resort to the ideology of left, right or center for its resolution; common sense will do. The Senate is now faced with two such common sense issues in respect to the food stamp program. The first is whether to remove that program's cumbersome and fraud-prone purchase requirement, and the second is whether the access of Puerto Ricans to food stamps to be curtailed. Both are among amendments to the food stamp program now under full Senate consideration.

If a family is eligible for $66 in food stamp benefits, it is now required to purchase a total of $166 in actual stamps to reap the $66 benefit each month. Aside from the fact that some very poor people can't put together that much out-front cash each month, the purchase requirement invites abuse. The stamps are sold by private vendors who contract with state welfare agencies for the privilege of selling federal food stamps. The question is what those vendors do with that $100 after the transaction has been completed. By law, the vendor is required to turn over his receipts to the federal government every 24 hours if the day's business exceeds $1,000. In clear violation of that requirement, many vendors—banks, credit unions, churches and check cashing operations—invest that money by banking it. The practice is called "lapping," and the cost to the federal government runs into the millions of dollars. Eventually, the government demands the cash, and gets it. Minus the accumulated interest. At any given moment, according to the best authorities on the subject of food stamps, as much as $2 billion in food stamp money *might be floating around in the economy* making vendors wealthy. Meanwhile, politicians carp about how many—or how few—food stamp families are above the poverty line. The simplest remedy for this, the real "rip-off" of food stamps, is the removal of the purchase requirement. Sens. Bob Dole (R-Kan.) and George McGovern (D-S.D.) plan on introducing such an amendment to the Senate Agriculture Committee's food stamp reform bill when it reaches the floor. Their amendment should prevail because: (1) More of the poorest of the poor will be able to use food stamps, which was the original intention of the program; (2) it will end an expensive abuse and (3) it can be done at a cost that is less than the cost of today's food stamp program, even if a little higher than the Senate Agriculture Committee's bill. The food stamp program, after all, was intended to feed those in need.

Feeding Puerto Rico's needy, and the cost of it, is the other major food stamp issue facing the Senate. What was a recession for the mainland was a depression in Puerto Rico. Today, months after recovery has begun here, between one-fifth and one-third of the commonwealth's work force is either unemployed or severely underemployed. Thus, 70 percent of the island's population is eligible for food stamps and 50 per cent receive them.

Sen. James Allen (D-Ala.), proposes some severe medicine. He would require the reduction of benefits to a state when its participation exceeds three times the national average. Sen. Allen's amendment to the food stamp program would reverse the program's presumptions. The program is based on need. He would argue that when need exceeds his notion of propriety, it automatically be reduced. The effect on the poor people of Puerto Rico would be disastrous. The present average benefits per household on the island, whose food costs exceed those of the mainland by a good bit, is 23 cents per

person per meal. The Allen amendment would cut that to 12 cents per person per meal.

Moreover, were Mr. Allen to prevail, one of the immediate consequences would probably be more migration from Puerto Rico to the mainland. As Sen. Allen already knows, those unemployed and impoverished islanders are not going to head for Montgomery or Mobile, but for New York City, and that town can surely do without any welfare case load contributions from Mr. Allen. Because the Allen amendment defies reason, it should be defeated. It deserves to go the way of the purchase requirement, and for the same reason—lack of plain common sense.

Mr. ALLEN. Moreover, it says:

Were Mr. Allen to prevail, one of the immediate consequences would probably be more migration from Puerto Rico to the mainland. As Sen. Allen already knows, those unemployed and impoverished islanders are not going to head for Montgomery or Mobile, but for New York City, and that town can surely do without any welfare case load contributions from Mr. Allen. Because the Allen amendment defies reason, it should be defeated. It deserves to go the way of the purchase requirement, and for the same reason—lack of plain common sense.

Mr. President, it seems to be the vogue in some sections or some areas to accuse people of racism. Now, I do not do that, but I am somewhat taken aback by the argument that we ought not to cut the subsidy in Puerto Rico because, if we do, some of those American citizens there will come to a point on the mainland.

I think that is a real poor argument to make. Why should not those American citizens come to this country if they see fit so to do? The argument seems to be, let us see that they get everything that we can give them in the way of a subsidy to prevent them from coming to the mainland. I do not appreciate this editorial of the Washington Post, and I do not appreciate their argument, either, that we need to continue this subsidy in order to keep them from migrating to this country, as they have a right to do under the Constitution.

Now, Mr. President, I called attention earlier today to the point that we do not have to give food stamps at all to Puerto Rico if we do not want to—just as the substitute already provides for less in the way of deduction there than we have in the States. But I was somewhat amused, back in 1969, when Mr. DOLE and Mr. MCGOVERN were moving to put Puerto Rico under the food stamp program. At that time, the commodity program was costing $23 million and Mr. DOLE asked Mr. MCGOVERN what the increase in cost would be.

I said there would not be any increase, it would probably be less. But the cost now, with unemployment and all these factors that have gone into it, instead of $23 million, is $600 million. So, Mr. President, the purpose of this amendment is called to the attention of the Senate for what action it wants to take. I feel I have that responsibility, because I held these hearings and found out about this what I must call a ripoff of benefits eight times the national average.

Mr. President, my views are not altogether at variance with a column appearing in one of the Puerto Rican papers by a Puerto Rican columnist there by the name of Alex Maldonado, that came across the wire this afternoon. Let me read briefly from it.

I ask unanimous consent that the full wire service story be printed in the RECORD.

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

SAN JUAN, PUERTO RICO.—Puerto Rico has become a "one-crop" economy with the single crop being Federal food stamps, according to an influential local columnist who called for a new thrust toward industrialization.

Alex Maldonado, in his column Wednesday in the San Juan Daily, El Mundo, critized the island's total dependence upon the U.S. Government for its subsistence, urging the local authorities to use more discretion in seeking federal funds.

Maldonado referred specifically to an amendment to the Federal food stamp program which Washington experts estimate would reduce Puerto Rico's participation from its present 600 million dollars a year-by far the nation's greatest—to less than 250 million dollars a year. The amendment was introduced by Sen. James Allen of Alabama and is expected to be debated on the floor of the Senate within the next day or two.

The Puerto Rican Government has launched a fierce fight to defeat the Allen amendment.

Maldonado, a well-known supporter of the present administration on the island, asked "do we want an economy that lives or dies on the basis of a congressional law, or an economy of industrial diversity, sustained by a broad base of economic activity?"

"Puerto Rico has been converted into a one-crop economy. Food stamps in particular and federal funds in general," Maldonado wrote.

He concluded that it was politically unrealistic for the Puerto Rican government to ask the Federal Government to reduce its financial input to the island.

"No government elected in Puerto Rico could deliberately reject federal funds which would throw more Puerto Ricans into poverty and misery, and survive politically," he said, but "Puerto Rico can use more discretion in the future and not always insist that Congress treat us as a state in the distribution of federal funds."

Maldonado also insisted that ultimately Puerto Rico must be willing to contribute to federal revenues in exchange for what it gets, although he said the island was not now in an economic position to do this. Puerto Ricans pay no Federal taxes.

The only solution, the columnist concluded, "is to develop the economic sectors that can sustain and raise the people. And as we all know, the only way to develop our economy is through industrialization".

He described the alternative to food-stamp dependency as "to generate the investments in manufacturing, Commerce, construction, agriculture and tourism that will create the hundreds of thousands of jobs that Puerto Rico will need in the next years".

Mr. ALLEN. To read from the story:

Puerto Rico has become a "one-crop" economy with the single crop being Federal food stamps, according to an influential local columnist who called for a new thrust toward industrialization.

Alex Maldonado, in his column Wednesday in the San Juan Daily, El Mundo, criticized the island's total dependence upon the U.S. Government for its subsistence, urging the local authorities to use more discretion in seeking Federal funds.

Mr. President, my feeling that a ripoff is taking place is not entirely at variance with informed thought in Puerto Rico.

Maldonado referred specifically to an amendment to the Federal food stamp program which Washington experts estimate would reduce Puerto Rico's participation from its present 600 million dollars a year.

To use the same figure that I did:

By far the nation's greatest—to less than 250 million dollars a year.

That is when it was less than 200 percent. It is now 400 percent.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLEN. I ask the manager of the bill to yield me 5 minutes on the bill.

Mr. TALMADGE. I yield 5 minutes to the Senator.

Mr. ALLEN (reading):

Maldonado, a well-known supporter of the present administration on the island, asked, "Do we want an economy that lives or dies on the basis of a congressional law, or an economy of industrial diversity, sustained by a broad base of economic activity?

"Puerto Rico has been converted into a one-crop economy. Food stamps in particular and Federal funds in general."

You know, Mr. President, Puerto Rico has an income tax down there. It is not paid into the Federal Treasury. It goes into the island treasury. So the Senate, I know, will turn the amendment down, but I felt it my duty to call this ripoff situation to the attention of the Senate so that the Senate can make this decision. Of course, the Senator from Alabama can only lay the facts before the Senate.

Mr. President, I have introduced an amendment, No. 1511, to the bill now pending before the Senate. My amendment is designed to insure that no State, Commonwealth, or territory receives food stamp bonus benefits at a per capita rate in excess of 400 percent of the average per capital benefit rate throughout the country.

Mr. President, as you know, the food stamp program is administered by the States, although the funds involved are Federal. There is, therefore, presently little incentive insofar as State agencies are concerned to keep program costs within reasonable bounds. My amendment would in part correct that problem but guaranteeing that one State, Commonwealth, or territory exceeded by more than a factor of four the national per capita average food stamp bonus distribution.

At present, this factor is exceeded only by Puerto Rico and the Virgin Islands. My amendment would have no effect whatsoever on any one of the 50 States nor would it have any effect on the Territory of Guam. No State or territory, except Puerto Rico and the Virgin Islands, at present comes any where near exceeding the factor of 400 percent called for in my amendment. The Virgin Islands only slightly exceed that factor and my amendment would have only a very slight effect in the Virgin Islands.

Puerto Rico does exceed the factor of 400 percent significantly; therefore, my amendment would chiefly impact on the food stamp program in Puerto Rico.

Mr. President, before hearing inevitable charges that my amendment is an ill-conceived and discriminatory measure aimed at Puerto Rico with no forethought given the welfare of the Puerto Ricans, I believe a dispassionate review of the facts could be useful to Senators in advance of those emotional statements of outrage that shall surely soon ring forth.

Mr. President, the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture and Forestry conducted 9 days of hearings to investigate the administration of the food stamp program. I am privilege to serve as chairman of that subcommittee, and I was present throughout the subcommittee's review of the program. During the course of our hearings, many startling facts regarding abuses and maladminstration in the food stamp program surfaced. The one most shocking discovery in my judgment was the revelation that the small island of Puerto Rico, with a population under 3 million, accounts for slightly under 10 percent of the entire cost of the food stamp program. The sum of 17,000 retail "food" outlets have been certified to handle food stamps in the island. Many of these outlets are very small retail stores with food only a minor component in the trade conducted. Department of Agriculture Investigators reported to the subcommittee staff many instances of abuse in the retail store certification process. For example, a billiard hall might be certified if part of its trade consisted of the sale of food. Food stamp coupons are frequently not used for food purchases. Signs appear in the windows of TV and appliance stores stating that food coupons are accepted. Frankly, Mr. President, food stamp coupons in Puerto Rico appear to be exchanged by the population almost as freely as ordinary currency.

Mr. President, after hearing the testimony of many witnesses, and after giving this particular matter very close study, I have concluded that a serious miscalculation was made in the manner in which Puerto Rico was brought into the food stamp program. I believe the island was included without any real forethought as to probable consequences, both with regard to expense and proper administration.

In the area of proper administration, I will, in the interest of time, simply ask unanimous consent to have printed in the RECORD an 11-page Department of Agriculture letter which sets forth in outline a corrective action plan for major administrative problems uncovered by Department Investigators. Incidentally, Senators should be aware that the entire Agriculture Department's investigation has been referred to the Department of Justice for possible further action. Investigation was referred December 1975.

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

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Princeton, N.J.

Dr. RAMON GARCIA SANTIAGO,
Secretary of Social Services, Food Stamp Program, Commonwealth of Puerto Rico, Santurce, Puerto Rico.

DEAR DR. GARCIA: Thank you for taking time out of your busy schedule to meet with me and Regional Office staff members September 8th to discuss Food Stamp Program operations in Puerto Rico. This is to confirm the discussions held and to provide a proposed Corrective Action Plan that we may agree upon for implementation at the earliest practicable date.

Of course, you and I know that problems exist in the operation of the Program in Puerto Rico, many of which relate to its size and attendant complexities. Nevertheless, I am certain you will agree we must give the highest priority to improving Program operations if our efforts in the Island are not to collapse from the sheer weight of the various deficiencies as they now exist.

Our letter dated June 30, 1975 provided you with a profile in accordance with Section 275.10 of Departmental Regulations summarizing Program deficiencies which were developed from information then available to us. At that time, you were advised of a forthcoming addendum to the profile based on a definitive report of the FHS Task Force. The addendum was transmitted by letter dated August 11, 1975. It was our intention through both these issuances to provide you a listing of major shortcomings to which you could address yourself to enable submission of a Corrective Action Plan by November 1, 1975, in accordance with the Regulations.

We met, subsequently, on September 8th to discuss the Task Force findings. While we were agreed that a number of problems exist for resolution, we did not, however, strike an accord on methodology to effect change. It was pleasing to note in Mr. Rodriguez"s letter dater September 12, 1975 the assignment of Mr. Max Ramos, Director of the Evaluation and Analysis Division as your E & E Coordinator. This establishes a base of contact to follow-through on all corrective action activities and progress reporting.

Since your Agency's Corrective Action Plan is due by November 1, 1975, we have developed the following as a draft for your consideration. We would like to visit with you once again after you have had a chance to review this paper to work with you toward final approval.

1. Competency of ADP System—

1.1 Problem Analysis: The Computer Center is failing to provide proper service to the Food Stamp Program. The ADP system is not efficiently performing any of the central Food Stamp Program functions—accountability, issuance certification and reporting. Thus, the entire operation of the Food Stamp Program is adversely affected.

1.2 Proposed Corrective Action: Since a competent ADP system is essential to smooth and efficient operations, absolute control over and functioning of the Computer Center should be placed within the Puerto Rico Department of Social Services. Once it is under the control of the DSS, management of the Computer Center must be organized in a manner that will give highest priority service to the Food Stamp Program. The contract of the Data Processing Consultant should include explicit performance clauses. The contract should describe what tasks are to be performed and the dates by which they must be completed. Uplifting the food stamp ADP system is of critical importance since the present unsatisfactory level of Food Stamp Program operations should turn around when the ADP system begins to competently service the program.

1.3 Objective and Target Completion Date: The Computer Center should be placed under the absolute control of DSS by January 1, 1976. Specific performance standards should be placed in the contract of the Data Processing Consultant when that contract is renewed.

2. Accountability—

2.1 Problem Analysis: Reviews by FNS task force personnel and USDA audits indicate that Puerto Rico is not accomplishing the fundamental control and accountability functions that are necessary to determine the accuracy and validity of monthly food coupon issuances in excess of $60,000,000, of which about $40,000,000 is in bonus coupons. Puerto Rico's accountability problems extend from the Computer Center right down to the cashier level. Accountability problems include the following:

A. FWS–250, Food Coupon Accountability Report, is not prepared and submitted to FNS on a timely basis. Moreover, FNS–250 Reports that are submitted are not validated by reconciling the authorized sales portion of the report with the redeemed ATP cards. This failure to reconcile was initially due to a backlog of machine issued ATP's at the Computer Center, but this backlog appears to be cleared up. A major problem in reconciliation now appears to be in entering the manually issued ATP's, Retroactive Benefit Statements (PC–43), and non-matched ATP's into the reconciliation process. FNS task force reviews also indicate that a problem exists in keying the data listed on Form PC–33, Batch Transmittal, into the computer. Finally, problems continue to exist in timely transmitting all documents necessary for reconciliation from the issuance office to the Region to the Computer Center.

B. Besides reconciling the FNS–250 with the redeemed ATP's, FNS Machine Issuance Instruction 734–2 requires a second type of reconciliation—a reconciliation of redeemed ATP cards with the Household Issuance Record file in order to identify altered, duplicate, counterfeit, and stolen ATP cards. Task force reviews indicate that Puerto Rico is also failing to perform this second important monthly reconciliation; largely for the same reasons cited in 2.1A (above). Failure to perform both types of reconciliation may also be due in part to inadequate programming.

C. Puerto Rico DSS does not yet submit timely FNS–256's, Reports of Participation and Coupon Issuance. Reports that are submitted are usually estimated reports, and actual data is frequently not submitted for many months. This problem is also attributable to the general inadequacy of the accountability system described in 2.1A and B described above.

D. The ADP system does not maintain the participation history of each household as required by FNS instructions and regulations.

2.2A, B, C, and D—*Proposed Corrective Action:* Puerto Rico State Agency must take whatever action is necessary to improve its accountability system to the point where it is producing timely, accurate and valid FNS–250 and FNS–256 Reports because these two reports are the basic accounting documents of the Food Stamp Program. As stated in the FNS task force report of August 11, 1975, highest priority must be given to (1) the development of a workable and fully documented system which will alleviate the above noted deficiencies in the basic reconciliation process; (2) ensuring that the Computer Center implements an internal accountability system for control of certification and transaction documents within the Computer Center; (3) implementation of a document

control and transportation network to ensure the timely transmission of required documents to and from the Computer Center. In order to meet computer deadline for the processing of input documents, specific time frames should be established. Each eligibility worker should clear his work each day. A maximum period of 3 days should elapse from the completion of a computer input document by the eligibility worker to the time such document is processed by the computer. Any document rejected by the Region or Computer Center should be returned for correction and be resubmitted so that it arrives at the Computer Center and is processed within 10 days. The Pony Express system for the transportation of documents should be improved to the point where no delays occur in the transmission of documents.

Modify the ADP system so that it will maintain the data file, including name, address, case number, period of certification, basis of issuance, and record of participation for each household for a minimum of three months. If the participation history is maintained on this file for the minimum three months, the remainder of each household's participation history must be maintained elsewhere in auditable form for a period of three years.

2.3A, B, C and D—Objective and Target Completion Date: Puerto Rico must improve its accountability system to the point where:

(1) Current FNS–230 Reports, which have been fully reconciled, are submitted to FNS within the established time frame beginning with the 250 Reports for the month of December 1975 which are due in January 1976.

(2) All previous FNS–250 Reports, beginning with the inception of the program in Puerto Rico in July 1974, must be fully reconciled against redeemed ATP's for the appropriate month so that FNS will be able to fully account for total coupon issuances in Puerto Rico during this period. Amended reports must be submitted in cases where the totals from the redeemed ATP's do not match the authorized sales and collection portion of the corresponding report. In view of the fact that FNS still does not have valid documents supporting Food Stamp Program issuances in Puerto Rico for the first 15 months of the program, issuances for all previous months are to be fully reconciled and amended/initial FNS–250 Reports submitted as necessary no later than March 1, 1976.

(3) FNS–256's, Reports of Participation and Coupon Issuance, are to be submitted for current and prior months in accordance with the above cited FNS–250 Report target dates, i.e., the December 1975 Reports will be submitted on time and previous reports not later than March 1, 1976. When estimated 256 Reports are submitted, actual reports should be submitted no later than one month after the submission of the estimated report. Accordingly, all redeemed ATP cards are to be reconciled against participation files in order to identify losses due to duplicate issuances, alterations, etc., by month, not later than January 1, 1976 for the month of December 1975 and March 1, 1976 for all previous months.

(4) Maintain the required participation history for each household as noted in 2.2D by February 1, 1976.

3. Organizational Weaknesses—

3.1 Problem Analysis: Reviews by FNS task force personnel indicate a fundamental organizational weakness exists in the Food Stamp Program because of fragmentation of responsibility between the Regions, the Central Office, the Computer Center, and the Data Processing Consultant. It is often impossible to determine who is charged with specific tasks when problems arise and it is frequently true that each element denies responsibility.

3.2 *Proposed Corrective Action:* Increase the authority and control of the Puerto Rico Food Stamp Executive Director over all organizational components of the Food Stamp Program in Puerto Rico. Particularly, the Regions should be placed under the direct control of the Food Stamp Executive Director since the Food Stamp Program is the predominant Federally funded program administered by Puerto Rico DSS. The Executive Director's authority in this regard should be confirmed by a memorandum from the Secretary, Puerto Rico Department of Social Services, to the Directors of each of the nine Regions, pointing out that the Executive Director has the authority to issue directives to the Regions and that the Directors of the Regions are responsible for assuring that such directives are promptly implemented. The Executive Director's authority over all other organizational components of the Food Stamp Program in Puerto Rico should be similiarly confirmed.

3.3 *Objective and Target Completion Date:* All administrative action necessary to implement the corrective action proposed in 3.2 (above) should be completed no later than December 1, 1975.

4. *Supervision of Local Offices by the Regions*—

4.1 *Problem Analysis:* Puerto Rico DSS Regions are not properly monitoring and supervising Food Stamp Program operations in the municipalities under their control. Reviews by FNS personnel have disclosed that even when deficiencies in local office operations do become known to the Regions, the Regions do not follow through to ensure that such deficiencies are promptly corrected. This weakness applies to Regional office management of both certification and issuance functions.

4.2 *Proposed Corrective Action:* Increase Food Stamp Program staff in the Regions, especially at the management level, so that they can properly monitor and supervise local offices. Regional Office management responsibilities should be clearly outlined and delegated to appropriate personnel so that it is clear who is responsible for taking action when specific problems arise.

4.3 *Objective and Target Completion Date:* Increase Food Stamp Program staff in the Regions to a level adequate to correct the above deficiency no later than February 1, 1976.

Develop a plan that pinpoints duties and responsibilities of specific units and/or persons in the Regions no later than February 1, 1976.

5. *Excessive Use of Manual ATP's*—

5.1 *Problem Analysis:* USDA audits and FNS task force reviews indicate that an excessive number of manual ATP's are issued throughout Puerto Rico. The primary cause of this excessive number of manual issuances seems to be attributable to a lack of proper computer programming, including the lack of an up-to-date data base, at the Computer Center. This has required the local offices to prepare a voluminous number of manual ATP's in order to service eligible clients. Also, the chore of constantly preparing manual ATP's wastes the time of workers which should be spent on certification activities.

5.2 *Proposed Corrective Action:* Puerto Rico DSS should take action to restrict the issuance of manual ATP's *to emergency cases only* by:

(1) Improving computer programming and data processing in the Central Computer Office so that all input documents are promptly processed.

(2) Closely monitor the status of subsequent certifications (recertifications). The computer should furnish the Central Office a monthly printout of discontinued cases. Each individual case that has been discontinued should be coded to indicate the reason for its termination. This will enable the Central Office and the Regions to quickly identify any offices in which backlogs arise and take prompt corrective action to eliminate such backlogs.

5.3 *Objective and Target Completion Date:* Puerto Rico DSS will reduce the issuance of manual ATP's to 10% of September 1975 levels by January 1976.

6. *Accountability of Blank ATP Cards and Retroactive Benefit Vouchers*—

6.1 *Problem Analysis:* USDA audits and FNS task force review indicate that current procedures relative to the preparation, use, and accountability of blank ATP cards (those in local offices intended for manual issuance) and Retroactive Benefit Vouchers does not assure proper validity or accountability of these ATP cards and vouchers. Blank supplies of ATP's are readily accessible to a large number of personnel in most offices. Also, when manual ATP cards are issued, local offices do not always check all available information (in the case files, on computer printouts of "emitted" ATP's, etc.) to assure the propriety of the manual issuance.

6.2 *Proposed Corrective Action:* First, the procedures for the security and control of blank ATP cards outlined in Section IV C of FNS (FS) Instruction 732–2, Revision 2, should be adopted by all local offices in order to prevent monetary loss to USDA due to potential fraud, embezzlement or other misuse of these ATP cards. It is particularly important that responsibilities for the issuance of manual ATP's be divided between two persons—the certification worker and the clerical staff or between the certification worker and supervisory personnel. Secondly, local offices should check their own files and "emitted listings" of machine ATP's which are supplied by the Computer Center in order to determine the propriety of the manual issuance. The guidelines outlined in Section VII C of 734–2 must be adhered to. Thirdly, local offices should send an input document to the Computer Center whenever a manual ATP is issued in order that it will match up at reconciliation. Also, the same strict accountability standards should also be applied to Retroactive Benefit Vouchers, since these are negotiable documents.

6.3 Objective and Target Completion Date: Puerto Rico DSS should implement all procedures relative to the preparation, security, control, accountability and issuance of blank ATP cards required by FNS (FS) Instruction 734–2 no later than January 1, 1976. Similar procedures will be applied to Retroactive Benefit Vouchers by January 1, 1976.

7. Length of Certification Periods—

7.1 Problem Analysis: USDA audits and FNS reviews have disclosed that Puerto Rico DSS is not in compliance with FNS regulations in the assignment of certification periods. A recent review of computer printouts of certification periods indicates that 85% of the certification periods are for between six and twelve months and less than 6% of certification periods are for three months or less. It also indicated that almost 25% of certification periods are for 12 months. Also, Puerto Rico DSS was improperly extending the certification periods without authorization from FNS. It seems that such extensions were made automatically at the Computer Center and also in some cases manually by local certification offices.

The problem is also aggravated by the fact that the certification periods in the computer master file often differ from the certification periods in the case files. This has been happening because the computer was assigning

certification period based on the date when the input document was processed, rather than the date assigned by the eligibility worker.

7.2 Proposed Corrective Action: All local certification offices should be instructed to assign certification periods in accordance with FNS instructions. DSS Central Office and the Regions should make periodic reviews to assure that proper certification periods are being assigned.

Procedures should be implemented in order to assure that certification periods in the computer master file match those in the correspondence case files. Action should be taken to assure that the current master file is brought up-to-date in this regard.

7.3 Objective and Target Completion Date: The corrective action outlined in 7.2 (above) should be implemented immediately in order to assure that 85% of the certification periods are less than six months long by March 1, 1976.

8. *Mailing Initial ATP Cards*—

8.1 Problem Analysis: FNS reviews have disclosed that it is the practice of the Puerto Rico DSS to send all initial ATP cards to local certification offices rather than mailing them directly to recipients. Consequently, the mailing address given by the recipient at the time of certification is not verified. The practice facilitates fraud, since fraudulent one-month cases can easily be created. Also, it represents an additional waste of time of certification office personnel and aggravates the already severely crowded conditions in local certification offices.

8.2 Proposed Corrective Action: Puerto Rico DSS should cease the above practice and begin mailing the initial APTs to all households in order to verify household address, in order to free up the time of certification personnel so that they do not have to attend to clerical chores, and in order to alleviate crowded conditions that exist in most offices.

8.3 Objective and Target Competition Date: It should be the objective of the Puerto Rico DSS to begin mailing all initial machine issued ATP's directly to recipients by January 1976.

9. Recipient Claim Determinations—

9.1 Problem Analysis: FNS records indicate that not a single Report of Claim Determination for food stamp overissuances has yet been submitted to FNS by Puerto Rico DDS. FNS audits indicate that in certain cases monies have been collected but have not been transmitted to FNS.

9.2 Proposed Corrective Action: Puerto Rico DSS should establish a Claims Unit or Bureau in the Central Office and in each Region to assure that a claim determination is prepared for all overissuances of bonus coupons, to assure that such claim determinations are properly completed and submitted to FNS, and to assure that all monies collected are promptly transmitted to FNS Claims Branch.

9.3 Objective and Target Completion Date: The Claims Units described in 9.2 (above) should be completely functional no later than January 15, 1976.

10. Second Party Review—

10.1 Problem Analysis: USDA audits have disclosed a general absence of second party reviews of food stamp certifications and subsequent certifications. This was attributable to the lack of an adequate number of certification supervisors.

10.2 Proposed Corrective Action: Puerto Rico DSS should appoint an adequate number of certification supervisors to perform second party reviews of all zero purchase cases and all cases certificated for six months or more in order to assure the propriety and accuracy of such certifications.

10.3 Objective and Target Complation Date: It should be the objective of the Puerto Rico Department of Social Services to implement such a system of second party reviews no later than January 15, 1976.

11. Other Certification Deficiencies—

11.1 Problem Analysis: USDA audits have disclosed the following additional certification deficiencies:

A. There is no control system to identify authorized representatives who represent more than one household as required by Section 2136 of FNS (FS) Instruction 732–1.

B. Work registration procedures were not followed.

C. Changes in public assistance cases that would affect food stamp participation were not processed.

11.2A. Proposed Corrective Action: All local offices should implement the controls over multi-household authorized representatives that are required by Instruction 732–1 in order to prevent potential Food Stamp Program abuses by such authorized representatives.

B. The DSS Central Office should send a directive to all Regions and local offices reinstructing them in work registrattion procedures. A schedule of periodic reviews by the Regions should be instituted until it can be determined that problems with regard to work registration procedures no longer exist.

C. Puerto Rico DSS should institute procedures to assure that changes in public assistance cases that would affect their food stamp participation are timely affected for food stamp purposes.

11.3 Objectives and Target Completion Date: It should be the objective of the Puerto Rico Department of Social Services to implement the corrective action listed in A, B, C, above no later than December 1, 1975.

12. Other Accountability Deficiencies—

12.1 Problem Analysis: USDA audits revealed the following additional accountability deficiencies:

A. There is a lack of or inadequate control over ATP's returned by recipients, or returned by the Post Office as undeliverable.

B. Issuing offices were not depositing cash with the frequency required by FNS instructions.

C. More than one issuance office person had access to the same cash drawer and coupon inventory.

D. ATP's were not properly cancelled.

E. Issuance offices were failing to take a physical inventory at the end of each month.

12.2A. Proposed Corrective Action: Local offices should be reinstructed to handles ATP cards in accordance with Section VI A of FNS (FS) Instruction 734–2 in order to prevent misuse of returned ATP cards. The Regions should monitor this until all municipalities have implemented proper controls and procedures.

B. Assign Regional accountants the responsibility of assuring that all local offices timely deposit receipts from the sale of food stamps.

C. Access to individual cashier's cash drawers and the coupon inventories should be limited to the cashier and the cashier's supervisor.

D. Regional offices should reinstruct and monitor issuing offices to assure that all transacted ATP cards are properly cancelled with a stamp clearly showing the date of the transaction, the office, and the cashier identification number. Each individual cashier's stamp must carry its own identification number.

E. Regional accountants must assure that all issuing offices perform end-of-month physical inventories in order to verify the inventory section of the FNS–250 Report. Regional accounting should also periodically conduct surprise physical inventories of local issuance offices.

12.3 Objective and Target Completion Date: It should be the objective of the Puerto Rico Department of Social Services, because of the importance and basic nature of the corrective action outlined in 12.2 A, B, C, D, and E (above), to implement all corrective action outlined above by December 1, 1975.

13. FNS–285 Reports and Retroactive Benefit Reports—

13.1 Problem Analysis: Puerto Rico DSS has not been submitting to FNS timely and accurate FNS–285 Reports (Monthly Report on Termination and reduction of Food Stamp Benefits) and monthly Retroactive Benefit Reports.

13.2 Proposed Corrective Action: Assign a specific person or unit with the responsibility of submitting FNS–285 and Retroactive Benefit Reports on a timely basis.

13.3 Objective and Target Completion Date: Puerto Rico DSS will submit accurate and timely FNS–285 and Retroactive Benefit Reports beginning with the December 1975 reports which will be due in January 1976.

All previous months' reports will be submitted to FNS no later than March 1, 1976.

We look forward to meeting with you again in the near future. Thank you for your cooperation with the Food Stamp Program.

Sincerely,

_____,

Administrator, Mid-Atlantic Region.

Mr. ALLEN. Mr. President, some Senators may recall that the food stamp program was mandated for Puerto Rico in the fall of 1973 by a House amendment to the food stamp amendments of that year. The Senate conferees agreed to the House amendment, and the Senate subsequently approved the conference report which made only passing reference to the island. The Senate, therefore, never specifically considered the issue of Puerto Rico's participation in the program nor did the Senate have any opportunity to study carefully the possible consequences of including Puerto Rico.

Senators, we now have the benefit, costly though it has been, of experience.

Let me for one moment trace the development of federally funded food programs in Puerto Rico. Commodity distribution began in Puerto Rico in 1935. In the later years of commodity distribution, Puerto Rico received for needy families $21 million in fiscal year 1969; $26.9 million in fiscal year 1970; $33.1 million in fiscal year 1971; $37.1 million in fiscal year 1972; $48.2 million in fiscal year 1973; and $53 million in fiscal year 1974. The value of the commodities distributed to needy families in its final phaseout year, 1975, was $23.2 million. The commodity program served over 20 percent of the population of Puerto Rico in its final full year and provided approximately 150 million pounds of commodities.

In 1971 when the commodity program cost $33.1 million, Garcia Santiago, secretary of social services, Commonwealth of Puerto Rico, testified before the Select Committee on Nutrition and Human Needs that transferring the island from commodity distribution to food stamps would result in an annual cost of approximately $129 million. Mr. Santiago thus correctly recognized that food stamps would be more costly than commodities, but Senators, Mr. Santiago's estimate of the increase was far from correct. In the 2 years since Puerto Rico began the shift from commodities to food stamps, the annual rate of bonus distribution has skyrocketed to its pres-

ent incredible level of $600 million per annum.

Mr. President, the distinguished secretary of social services from Puerto Rico was not the only individual who miscalculated the impact of mandating food stamps for Puerto Ricans. In 1969 when the value of commodities distributed to needy families in Puerto Rico was $21 million, during debates on the 1969 Food Stamp Act Amendments, the distinguished Senator from Kansas, ROBERT DOLE, posed the following question to his distinguished colleague from South Dakota, Senator GEORGE MCGOVERN:

Mr. DOLE. With respect to the inclusion of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, I am wondering about the cost of this addition. What would the additional cost be because of those additions?

Senator MCGOVERN, I am sure to his present chagrin, gave the following astonishing response:

Mr. MCGOVERN. I would say it could actually result in a reduction in the cost because those areas now have the commodity distribution program. It seems to me more economical and practical to give them food stamps to permit them to make purchases through normal retail channels rather than shipping in commodities, which we are now doing. (CONGRESSIONAL RECORD, Senate, September 24, 1969, at p. 26886.

Mr. President, I wonder if what we have here is another example of the new math, so much in favor with those whose philosophy is spend, spend, spend. Senators, I am greatly troubled by this kind of unreasoned glib comment constantly and unabashedly being uttered to the subsequent dismay and heartbreak of the American taxpayer. If a change in program cost from $21 million to $600 million is a reduction, then Senators should be delighted at the very real prospect of a $1 billion program in the island before the decade is out.

Mr. President, the distinguished senior Senator from South Dakota's estimate notwithstanding, a change from $21 million to $600 million is not a reduction—it is an increase of almost thirtyfold, and I must say that some Senators—at least those who still cling stubbornly to the old math—might well choose to view with more than ordinary care any future cost estimates of their distinguished colleague from South Dakota.

Mr. President, well over 50 percent of the island's population participates in the food stamp program, and shortly before Christmas last year, participation rose to 60 percent; 70 percent of the island's population is eligible. Food stamp allotments are set at the same level as in the continental United States, $166 for a family of four. This allotment will increase in July to $172 which will then be above the level used in the 48 contiguous States. Even in the face of an apparent statutory mandate to the contrary in section 5(b) of the Food Stamp Act, as amended, no account is taken of the lower standard of living and consequent lower cost of living in the island. Eligibility levels are exactly the same as in the continental United States, even though the obvious result of that policy is to include a massive proportion of the island's population in the program, many of whom, at least with respect to good nutrition, are secure. No account is taken of the fact that nonfood demands on income, such as clothing, housing, and transportation, are substantially below similar demands faced by program participants in the United States.

Mr. President, the per capita cost of the food stamp program nationwide is $2.18 per month. The same cost in Puerto Rico is $17.32, almost 800 percent of the national figure. If outlying territories are excluded, bonus dollars per capita is $1.96 and bonus dollars per capita in Puerto Rico exceed that figure by 884 percent. My amendment would guarantee that Puerto Rico received per capita no more than $8.72 per person per month in the form of food stamp bonus value. The foregoing figures are based on USDA, January, 1976 food stamp bonus data, and July, 1975 Bureau of the Census population estimates.

At that level Puerto Rico would still be receiving a substantial boost to its economy but would be put on a more equitable basis with other States and territories. Additionally, if Puerto Rico elected not to contribute to the program, stamp allotments would only be reduced to a level consistent with lower overall demands on income on the island. A family of four would receive an allotment no lower than $114 per month and perhaps substantially higher than that figure with an average bonus for a participating family of four no lower than $88 which is comparable to the present average bonus received in the United States. Assumes a savings of $200 million and a present annual program cost of $600 million in Puerto Rico.

In this connection, I want the Senators present to be aware that the testimony of officials of the Puerto Rican Department of Social Services revealed that the entire welfare caseload in the island is only 60,000 whereas 1.5 million participate each month in the food stamp program. In contrast, over one-half of the food stamp participants within the United States are also welfare recipients, obviously not a happy situation but one which clearly indicates that the Puerto Rican government is relying on the food stamp program as a supplement for its own underfunded welfare programs. Senators should understand that welfare benefits are funded, at least in part, by the island government whereas food stamp benefits are not. Welfare benefits are low—food stamp benefits are high. I believe the approach taken by the island government is unjustifiable, especially taking into account the fact that Puerto Rican residents make no direct contribution to the U.S. Treasury and that Puerto Rico retains entirely its own revenues from its own taxes, collected at a rate comparable to the Federal income tax. Puerto Rican residents are excluded from taxation by the Federal Government by 26 U.S.C. section 933. A similar provision for corporations is contained in 26 U.S.C. section 931. cf. 13 Laws of Puerto Rico, section 3011, section 3012 with 26 U.S.C. section 1. What State in this Union would not welcome the opportunity to retain all Federal taxes while at the same time participating free in federally funded programs?

Many would say and emphasize, and I certainly would agree, that Puerto Rico is relatively poor in comparison with the United States. There are, however, individuals of considerable wealth in Puerto Rico, and the island's tax base is far from insignificant. One wonders, therefore, whether those in power in Puerto Rico have come to regard the food stamp program as a heaven-sent method of alleviating their own welfare burden without being required themselves to make any significant contribution of their own toward that effort.

Mr. President, my amendment would permit the Puerto Rican Government and the people of Puerto Rico to make at least some contribution to the funding of the food stamp program in Puerto Rico. If Puerto Rico elects not to contribute, allotments in Puerto Rico would be reduced accordingly to a level at which Puerto Rico would receive, free of cost to island taxpayers, no more than 400 percent of the national average per capita food stamp bonus distribution. My amendment, as modified, would be a fair and equitable method of treating all citizens of the United States, both those who pay taxes to the Federal Government and those who pay taxes to the Commonwealth government. My amendment would save the Federal Treasury $200 to $225 million annually and would not place an unreasonable burden on those American citizens who are also citizens of the Commonwealth of Puerto Rico.

Mr. JAVITS. Mr. President, will the Senator yield 4 minutes?

Mr. TALMADGE. I yield 4 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I rise in opposition to the amendment because it simply represents an effort to deal with and discriminate against Puerto Rico, the Virgin Islands, and Guam, because they are poor, and that is all it comes down to, whether it is 33 cents or 23 cents per meal, and it is still because they are poor. The express definition of the new rule which the Senator from Alabama wishes to see enacted into law is that in no State—all the 50 States and the Commonwealth and the territories are included—shall it exceed four times the national per capita bonus value.

When you equate that out mathematically, Mr. President, only one place is involved, to wit, Puerto Rico. Of course, the main point is Puerto Rico which has a population of roughly 3 million.

Mr. President, the recession has hit Puerto Rico like a tornado. The unemployment rate is 22 percent, that is, the official unemployment rate, and the general estimate down there is that it is 30 percent, and food stamps are the staff of life, there is no question about it.

Does that mean it should be denied on a discriminatory basis, to wit, just that one—it is none of the other 50 States that are involved—by this arbitrary definition instead of including it when they have the need, and there is no argument about that, like everybody else?

To call that a ripoff, which is what my colleague does, Mr. President, is simply

not recognizing what the word "ripoff" means, to wit, something gotten dishonestly. This is certainly in accordance with the law and as the law should be.

Now, Mr. President, Puerto Rico is a problem for the United States. But it is a problem the solution of which and the effort to solve which we have taken great pride in, and quite justly so.

A very serious attack on the United States in the United Nations was defeated in respect of Puerto Rico precisely because our record is so splendid in respect to this particular island.

Mr. President, that has to be computed against what that kind of a beacon of enlightenment and of American humanity, understanding and willingness to recognize the principle of self-government means to the whole Latin American world.

Finally, Mr. President and, very importantly, the precedent which such an amendment as my colleague proposes would impose upon us is a really awesome one to contemplate because there are many Federal assistance programs which, if you put this kind of a ceiling on them, could result in grave disadvantage, Mr. President, to small population States.

One particular example which we have analyzed is the Commerce Department's development facility grants where there would be material reductions to the very States which cannot afford it if any such rule of this character is carried into effect.

Mr. President, a number of my colleagues and I wrote a "Dear Colleague" letter in anticipation of this amendment to all of our colleagues which, I hope very much those signing it, Senator McGovern, who is in the Chamber, Senator Kennedy who, I hope, will speak, Senator Brooke and myself, Mr. President, and I hope very much the Senate will see the unwisdom of a rule such as this which, as I say, directly and very deleteriously affects one area—Puerto Rico.

Now, my colleague says that we should be neutral on whether people come to the mainland or not. But we cannot be neutral if people are driven to the mainland simply by the privation which is imposed through a discriminatory act of this kind. If they do not want to come to the mainland, they should not be forced to come to the mainland because of the inadequacy of their own diet in their own native Puerto Rico.

Mr. President, I have listened patiently to the arguments of those who would have us single out Puerto Rico for different treatment under the Federal food stamp program. They have attempted to justify such inequitable and discriminatory treatment on the grounds of Puerto Rico's low average income levels, its Federal tax burden, or its high "per capita bonus value."

What needs to be said here is that all of these arguments are specious and irrelevant.

We have a food stamp program in this country that is intended specifically to guarantee a nutritionally adequate diet to every needy American citizen. The sole determinants of benefits are the size of the household and the degree of need, as measured by net monthly income. There is nothing in the law or USDA regulations that provides for variation in this program according to other criteria. This amendment implicitly establishes a new criteria; an alternative principle on which to base food stamp benefits.

This amendment would create a "second class" of American citizens—residents of Puerto Rico, Guam, and the Virgin Islands—who will receive different treatment under the law. Their need for food stamp benefits is clear; household sizes entitle them to certain coupon bonus levels; but under this amendment their domicile would dictate a lower food stamp benefit.

How can any argument possibly justify such discrimination? How can we abrogate so blithely the spirit, intent, and principle upon which we have established a relationship between nutritional need and stamp benefit? Can we say an adequate diet costs less in Puerto Rico? The USDA ruled recently that allotment levels in Puerto Rico, that is, the "cost of a nutritionally adequate diet" should be the same as on the mainland. A family of four should spend $166 per month on food, even in Puerto Rico.

Can we say the economy of Puerto Rico is in such good stead that the citizens can better withstand the punishment of discriminatory treatment? The official unemployment rate is 22 percent and the unofficial estimates run to 30 percent. This means that almost one of every three Puerto Ricans looking for work cannot find it. Furthermore, food is more expensive in Puerto Rico than on the mainland because 70 percent of the food consumed must be imported. Lingering depression and higher food prices continue to afflict the economy of Puerto Rico.

What we are left with as the final argument in favor of this amendment is that the American citizens of Puerto Rico receive "too much" benefit from the food stamp program. This is tantamount, of course, to saying that the people there are "too needy." In effect, those who have proposed this amendment claim that once the degree of need exceeds their personal standard of respectability, the truly needy are to be treated like lepers—pariahs to be relegated to an inferior status. In short, supporters of this amendment would punish Puerto Ricans for being poor.

Since inception of the Federal food stamp program, this Nation has allocated food stamp benefits to its citizens according to the principle of need. We established a relationship whereby nutritional need would be the sole determinant of coupon benefit. The Congress did this after long and careful deliberation through the legislative process. This was as it should be in all matters that materially affect the health and well-being of American citizens.

Now it has been proposed that today this body alter, fundamentally and irrevocably, the principle that established the relationship between nutritional need and food stamp benefit. How can we take such precipitous action? How can we vitiate that relationship on such short notice and after only a few moments of deliberation?

Mr. President, I shall support the motion that S. 1511 be tabled.

So for all of those reasons, Mr. President, I hope the amendment will be defeated.

Mr. KENNEDY. Mr. President, will the Senator yield me 3½ minutes?

Mr. TALMADGE. I yield 3½ minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment offered by the Senator from Alabama to cut in half the food stamp program to American citizens in Puerto Rico.

I emphasize that the amendment would discriminate blatantly and cruelly against the citizens of Puerto Rico, making an already difficult economic situation virtually unbearable.

The full force of this amendment would fall on the poor in Puerto Rico reducing the allotment to a household of four in Puerto Rico to 23 cents per person per meal—half what it costs to purchase a minimum subsistence diet.

However, because this amendment not only cuts the family allotment but also maintains the same level of family payment, it is estimated that actual benefits would be reduced to an average of 12 cents per person, per meal. And many families—the poorest of the poor—would be forced from the program entirely because they would have to pay out more than they would receive in food stamp benefits.

It is this discriminatory consequence of the amendment—which would have no similar impact on any other area—which has produced such a massive political reaction in Puerto Rico. Gov. Rafael Hernandez Colon has led the protest against this amendment and has urgently requested that it be rejected.

His argument is not only the current economic plight of the people of Puerto Rico—a plight produced by our own economic difficulties during this past recession—but the basic unfairness of the proposal.

Instead of the appropriate national standard of responding to the greatest need, the new standard would almost reverse that doctrine by implicitly arguing that those with the greatest need should receive the least assistance.

Puerto Rico now has an unemployment rate of more than 20 percent. And food prices there are even more expensive than in the United States, primarily since 70 percent of the food is imported from the U.S. mainland.

Puerto Rico itself continues to be a vital part of our system, representing the sixth largest trading partner with the United States and an important link in our defense perimeter.

In our letter to other colleagues, Senators Javits, McGovern, and Brooke demonstrated the bipartisan nature of the opposition to this amendment.

Several editorials in leading newspapers have pointed to the unfairness and the lack of justification for this amendment

People in Puerto Rico do not desire to be poor. They do not desire to be unemployed. They do not desire to be recipients of food stamps. But they do want their families to eat and they do want their families to survive. That is what the food stamp program means to more than 1 million Puerto Ricans today. I do not believe this body, at this time of crisis, will turn its back on these fellow citizens.

You know, it is very interesting that only a few short years ago when the time came to draft young people from Puerto Rico to go over and serve in Vietnam I did not hear any amendment being offered on the floor of the Senate which said, "Let us not take those people down in Puerto Rico to go over to Vietnam and fight."

Now we are saying to the people of Puerto Rico, "Sure, you were good enough to fight in Vietnam, you were good enough to serve in the Armed Forces of the United States and 342 young men from Puerto Rico died in Vietnam." But we would be saying that just because more of your children are going hungry, we are going to give you half as much to eat; and any women or older people who get hungry are going to receive just half as much to eat.

That is going to be the result of the amendment of the Senator from Alabama.

I just hope we are going to reject that amendment. It is an amendment that ought to be rejected in this body. Every Member of this body knows that none of us would tolerate an amendment that would discriminate against any of our individual States.

The citizens of Puerto Rico are Americans and they are entitled to be treated by this food stamp bill the same way as every other American citizen.

I am hopeful that the Senator from Alabama's amendment will be defeated.

SEVERAL SENATORS. Vote. Vote.

The PRESIDING OFFICER (Mr. MORGAN). Who yields time?

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

Mr. ALLEN. Mr. President, I have some time remaining, I believe.

The PRESIDING OFFICER. I am advised the Senator has no time.

Mr. ALLEN. Mr. President, will the chairman of the committee yield me an additional 2 minutes?

Mr. TALMADGE. I yield 2 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, I was somewhat intrigued by the argument of the distinguished Senator from Massachusetts (Mr. KENNEDY). He is talking about discrimination against Puerto Rico. Why, the very substitute that he is prepared to support in just a moment has discrimination in there because it provides a $60 standard deduction for the citizens of Puerto Rico and $100 deduction for people here in the United States, including Massachusetts.

So he is prepared to discriminate there to the tune of $51 million. That is what it would cost, that is what it would deprive the citizens of Puerto Rico of, $52 million. He criticizes the Senator from Alabama for pointing to this ripoff in trying to do something about it. So he tries to discriminate against Puerto Rico, and then says the Senator from Alabama is trying to discriminate against them.

I merely called attention to the ripoff and told the Senate I felt it was my duty to call their attention to the ripoff. But the very substitute—I do not know whether the Senator's name is on it or not, he has been giving support to it—provides a $52 million penalty against the citizens of Puerto Rico, and the Senator from Massachusetts seems to be supporting it.

Mr. McGOVERN. Mr. President, will the Senator yield me a moment to reply to this point?

Mr. TALMADGE. I yield half a minute.

Mr. McGOVERN. Just to keep the record straight, the Senator from Massachusetts, in supporting this substitute amendment, is not advocating anything discriminatory. What the deduction formula is in the substitute amendment is a reflection of the situation that actually exists in Puerto Rico.

At the present time the average person in Puerto Rico participating in this program has a deduction of about $45. In order to provide adequate protection so that in no way would we discriminate against that average level, the substitute amendment sets the standard deduction at $60. Nobody is going to be hurt by that in Puerto Rico.

It reflects the actual situation that now exists in that island. So the Senator from Alabama is mistaken in assuming there is something discriminatory about this provision.

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

Mr. McGOVERN. Yes, I will yield.

Mr. ALLEN. I note the average deduction in the United States is $77, and the Senator is setting it in his substitute at $100, so he is adding to that average deduction there a whole lot more than he adds for the citizens of Puerto Rico.

Mr. McGOVERN. It just comes out about the same, in terms of the increase.

We have raised it from $45 to $60 in Puerto Rico and we have raised it to $100 on the mainland, but in both cases it reflects what is the actual situation.

Mr. JAVITS. Will the Senator yield?

Mr. McGOVERN. I do not have the time.

Mr. JAVITS. For just 1 minute.

Mr. McGOVERN. Yes.

Mr. JAVITS. Senator KENNEDY and I contemplated an amendment to deal with this $60 deduction and decided against it precisely for the reasons explained by the Senator from South Dakota.

Mr. McGOVERN. I appreciate that.

Mr. DOLE. Mr. President, the amendment of the Senator from Alabama (Mr. ALLEN) would severely slash food stamp allotments in Puerto Rico. Puerto Rican families would receive only half of the cost of a bare minimum nutritionally adequate diet. The average benefit in Puerto Rico would be cut to 12.7 cents per person per meal.

The amendment would impose a new, national per capita food stamp bonus standard to which individual State and area per capita food stamp bonus levels would be compared. If a State's per capita bonus level exceeded three times the national standard, either the State itself would make up the difference between its per capita bonus value and three times the national standard, or the food stamp allotment level for the State's inhabitants would be reduced sufficiently to lower the State's per capita bonus level to the required amount. This would not change the eligibility requirements; it would simply lower the benefits to participants.

The key to this amendment is that it is tied not to the average benefit per recipient, but to the average benefit per capital or per inhabitant of the State or territory. Puerto Rican recipients do not get unusually large food stamp benefits. The average recipient in States like Alaska, Florida, Hawaii, and Nevada gets a higher food stamp benefit than the average recipient in Puerto Rico. But because Puerto Rico is now in a severe depression with a 22-percent official unemployment rate, a substantially larger proportion of the Puerto Rican population is enrolled in the food stamp program than is true elsewhere, and as a result, the per capita food stamp benefit on the island exceeds three times the national average per capita benefit.

The Congressional Research Service has analyzed the impact of this amendment on Puerto Rico and concludes that a family of four currently receiving $166 in stamps each month—for which the family pays from $0 to $142, depending on its income—would have its allotment reduced to $88 per month. The $166 "allotment" level is based on the cost of USDA's "Thrifty Food Plan," which is the lowest cost food plan devised by any Federal agency. Amendment No. 1511 would reduce the allotment to a household of four in Puerto Rico to 24 cents per person per meal. In other words, low-income Puerto Rican families would receive only half of what it costs to purchase a bare minimum subsistence diet.

In addition, since these families would still have to pay the same amounts for their allotment of 24 cents per person per meal then actual benefits would be reduced to an average 12.7 cents per person per meal.

This would also operate to remove a number of persons with very low incomes from the program, because they would have to pay out more than they would receive in food stamp benefits. For example, a four-person household with net income of $325 a month—or a little more than two-thirds of the poverty level—would be dropped from the program because it would have to pay $89 for $88 in stamps.

It is true, of course, that the American citizens of Puerto Rico rely heavily on food stamp assistance. But this reliance can be attributed directly to the ravages of debilitating economic recession—the official unemployment rate is 22 percent, as bad as during our depression of the 1930's—and extremely high food prices. Food is actually more expensive in Puerto Rico than in the United States, because 70 percent of Puerto Rico's food is imported from the United States. In 1974,

a survey was conducted comparing food prices at Grand Union supermarkets in San Juan with Grand Union prices in five U.S. cities in Connecticut, New Jersey, and New York. The survey found food prices to be 19.84 percent higher in San Juan.

If the amendment of the Senator from Alabama was passed and food stamp allotments were cut by 50 percent, low-income Puerto Ricans will be unable to get anything even approaching a nutritionally adequate diet. Malnutrition on the island would then return to its alarming prefood stamp program levels.

FOOD PRICES AND MALNUTRITION IN PUERTO RICO

The food stamp allotments in Puerto Rico are already determined by a separate USDA plan tailored specifically to Puerto Rican dietary patterns. Indeed, it is the use of this separate plan that has kept allotments in Puerto Rico from being higher than those in the United States to reflect the higher food prices in Puerto Rico. The separate plan has been criticized by many medical professionals in Puerto Rico, as being too low to allow Puerto Rican food stamp recipients to get an adequate diet.

Thus, if allotments are cut in Puerto Rico, widespread malnutrition could result. Nutritional status studies conducted for nearly a decade prior to the introduction of the food stamp program all showed an alarming degree of poor nutrition among the island's residents. A Commission on Food and Nutrition set up to study the matter of nutritional adequacy for the Governor reported in 1974 that Puerto Rican diets were:

Deficient in many respects with the result that a significant part of the population continues to be underweight, substandard in height and suffer from many of the diseases, directly associated with poor nutrition, according to a number of studies carried out in the last eight years.

THE PRECEDENT THIS AMENDMENT WOULD SET

In addition to these objections, there is another adverse aspect of this amendment. A dangerous principle would be established according to which aid formulae for many Federal assistance programs could be adjusted by a "national per capita amount" times some arbitrary number. For example, several small population States receive considerably more than three times the per capita national average for Commerce Department development facility grants, and many small- and medium-population States receive more than two times the national per capita amount.

The same is true of Transportation Department highway trust funds, urban renewal grants, Housing and Urban Development water and sewer facilities assistance, health services planning and development assistance, HEW emergency school assistance, and land and water conservation funds, as well as other programs of Federal assistance to the States.

Were the principle established by amendment No. 1511 to S. 3136 to be applied across the board to all State assistance programs, the States with greatest need for Federal aid, in spite of their small populations, would sustain the deepest reductions.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. If I have any remaining time, I yield it back.

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

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

Mr. DOLE. I move to table the amendment of the distinguished Senator from Alabama.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ALLEN. Mr. President, I will not call for the yeas and nays.

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

Mr. ALLEN. Mr. President, I said that I would not call for the yeas and nays, so there is no reason for the Chair to ask for a sufficient second, as far as I know.

The PRESIDING OFFICER. Someone else did.

Mr. ALLEN. Very well.

The PRESIDING OFFICER. But there is not a sufficient second.

The question is——

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

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

The question is on agreeing to the motion of the Senator from Kansas.

Mr. ALLEN. Mr. President, did someone request the yeas and nays?

That is the question I asked, and I stated that I did not.

The PRESIDING OFFICER. It was the understanding of the Chair that there was a request for the yeas and nays.

Mr. ALLEN. Well, is there a request? Has it been withdrawn?

The PRESIDING OFFICER. The yeas and nays were not ordered.

The question is now on agreeing to the motion of the Senator from Kansas to table the amendment of the Senator from Alabama.

The motion to lay on the table the amendment of the Senator from Alabama was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and as that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the appropriate place insert the following section:

SEC. 14. Notwithstanding any other provision of law, the Secretary shall, during the period from enactment of this statute until September 30, 1978, purchase agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of commodity food assistance on Indian reservations not requesting a food stamp program and on Indian reservations making an orderly transition to the food stamp program.

Mr. KENNEDY. Mr. President, I have talked to the floor manager of the bill, the minority, as well as Senator MCGOVERN.

This is simply to permit Indians on reservations to have the opportunity to have commodities as well as food stamps. Justification for this goes back some period of time. I think the case has been made.

I understand they are prepared to accept the amendment for a 1-year period and then review the program in the future, and that is satisfactory to me.

Mr. TALMADGE. Mr. President, I have discussed this with the distinguished Senator from Massachusetts and the acting minority representative of the committee. We both agreed we can accept this amendment and look into it.

This extends the commodity program on the Indian reservations for 1 additional year.

The problem is that on Indian reservations, they are sometimes far removed from the nearest store.

I hope the Senate will agree to the amendment.

Mr. KENNEDY. Mr. President, the Agriculture and Consumer Protection Act of 1973 required that a nationwide food stamp program be implemented by July 1, 1974, terminating the family commodity distribution program. It was agreed, however, to give Indian reservations the option, through June 30, 1977, of remaining in the family commodity distribution program rather than making an immediate transfer to the food stamp program.

My amendment to the National Food Stamp Reform Act of 1976 would extend, for an additional 2 years, the deadline for Indian reservations to make the transition from the commodity distribution program to the food stamp program. This would allow reservations until September 30, 1979, to further adjust to the food stamp program, and authorize the Secretary of Agriculture, in the interim, to provide commodities on Indian reservations requesting them until that time.

In comparing the nutritional benefits derived between the educated user of food stamps and the commodity recipient, it is obvious that the food stamp program can provide a far greater potential for acquiring a balanced diet. With cautious planning, the consumer using food stamps can afford quality nutrition. The food stamp program is to a great degree superior for enabling most Americans with extreme financial limitations the benefits of a balanced diet.

Indian people are aware of the nutritional advantages of the food stamp program, but fear that those living on reservations will experience severe hardships if forced to switch to food stamps by the end of fiscal year 1977.

A great many of the difficulties Indians face in using food stamps are transportation-related. Most Indian reservations are spread out over hundreds of miles. The nearest food stamp office is often 50 to 80 miles away, public transportation is nonexistent, and private transportation for such a trip is expensive. In Florida, Indians on the Seminole reservation must wait in line as long as 2 or 3 days to be certified, and clients who miss 1 month's food stamp purchase are removed from the food stamp rolls and must go through the time-consuming certification process all over again. In addition, food stamps will not enable many reservation Indians to buy enough food to obtain an adequate diet, because food prices at trading posts on reservations are often 25 percent or more above off-reservation prices.

Where food stamp programs are administered by the States, the problems Indians face multiply. A number of States are reluctant to spend State tax dollars to run food stamp programs for Indians living on reservations, over which the States have no taxing authority. In light of this jurisdictional problem, some States are concerned that they have no legal authority to go onto reservations and prosecute in the event of food stamp fraud cases. Certification workers at food stamp offices frequently do not speak the Indian language, resulting in further delay, confusion, and humiliation on the part of the Indians.

In the future, Indian people hope to make plans for conducting their own food stamp program with the cooperation of USDA. Many reservations now administer their own commodity programs. Distribution points have been set up across the reservations, with recipients making only one monthly trip for commodity packets.

There is a job that needs to be done for a smooth transition to food stamps. The improvement of reservation transportation systems, and the development of new retail food outlets have not developed adequate to allow smooth transition by 1977.

As a result, mandatory transfer of all reservation to food stamps by the end of fiscal year 1977 would pose grave problems and create hunger and malnutrition among Indian families who found themselves cut off from commodities but unable to utilize food stamps. More time is needed to insure that this does not happen.

My amendment would not entail any added cost or impose any new administrative burdens. Only 60,000 Indians now receive commodities. The USDA estimates the cost of the commodity program for needy Indian families to be only $14 million in fiscal year 1976. My amendment entails nothing more than continuing to allocate this money to the commodity program rather than the food stamp program.

Mr. DOLE. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DOLE. We strongly agree.

The PRESIDING OFFICER. The Chair inquires of the Senator from Massachusetts whether this is an amendment to the substitute or to the bill?

Mr. KENNEDY. It is to be an amendment to the substitute.

The PRESIDING OFFICER. It should be properly drafted.

Mr. TALMADGE. Mr. President, I ask unanimous consent that technical drafting be corrected by the clerk of the Senate.

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

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

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

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

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON DOLE-M'GOVERN AMENDMENT

Mr. CLARK. Mr. President, I rise to speak in favor of the amendment in the form of a substitute to the food stamp legislation now before us—S. 3136. The substitute, as introduced by Senators DOLE, MCGOVERN, HUMPHREY, TALMADGE, HUGH SCOTT, and PERCY, represents a compromise which I feel merits this Chamber's support as a solid reform package.

As a member of the Senate Agriculture Committee, I have worked hard with my colleagues in the committee to effect a true reform of the food stamp program—reform which improves the program and does not simply make random cutbacks to save money. We all want to minimize the fiscal costs of the programs we legislate, but not at the expense of the social costs caused by the problems our efforts seek to resolve. The food stamp program is our major weapon against hunger and malnutrition in our country, and as such, any reform action must be deliberate in order to reflect its tremendous impact on the health and well-being of millions of needy Americans.

It is out of such a concern that I withheld my endorsement of the bill as reported out of the Agriculture Committee. By refusing to sign that committee bill, I was refusing to agree to the committee's notion of reform. That bill would have unnecessarily cut large numbers of needy people from the program without doing anything to help those who do not have access to the program although they are clearly eligible.

I support this substitute bill, because it represents a significant improvement upon the committee bill. The substitute does reform the operation of the program while protecting and reinforcing its strengths as a nutrition assistance program for the working poor as well as those who are unemployed, aged, disabled, and on public assistance. This substitute represents a real compromise, one that I can support and which serves the overall interests of the poor and near poor we are seeking to assist.

THE PURCHASE REQUIREMENT

I am disappointed that we have agreed to abandon the most progressive and important reform that a number of us sought in the Agriculture Committee—the elimination of the purchase requirement for food stamps. However, in return for that compromise, we have lowered the 27.5 percent purchase requirement in the committee bill to 25 percent. This means that every household will have to pay 25 percent of its net income for its coupon allotment.

Currently, section 7(b) of the act specifies that the Secretary establish food stamp purchase prices which represent a reasonable investment on the part of the household for a nutritionally adequate diet. The intent behind this statutory provision is to insure that all eligible households have a reasonable opportunity to participate in the food stamp program, and that no eligible household's purchase price should be so high as to prevent its access to the nutrition assistance provided by the program. Current law specifies that the outside limit for this investment be 30 percent of income, but it recognizes that this maximum is certainly not appropriate for most participating households. For this reason, the average purchase price for food stamp households is about 24 percent of their net incomes.

In the Agriculture Committee, we were presented with a number of bills which would have increased the purchase price to 30 percent of net income for all households. We rejected that 30-percent figure because it would have frustrated our intent in the current law to provide poor households a reasonable access to the nutrition assistance the program offers. It is for this reason that we rejected the administration's attempt to raise purchase prices to 30 percent across the board over a year ago. The substitute bill's specification of a 25 percent purchase price rejects the attempt on the part of the administration to mandate a higher purchase price that would unreasonably result in many needy households being unable to buy their way into the food stamp program.

ELIGIBILITY

The purchase price is only one way we have of insuring that those in need of nutrition assistance receive that help. Eligibility must be structured so that those in need of aid in order to obtain nutritionally adequate diets are afforded that opportunity. The current program achieves that goal by linking eligibility cutoffs to the amount of income necessary to obtain a nutritionally adequate diet.

Thus, I am somewhat troubled by the use of the poverty line as the criterion for the need for nutrition assistance under the food stamp program. I believe that the poverty line changes the course we have set under existing law and that it is too low a measure of the need for assistance under the food stamp program. While the poverty line at one time did reflect the cost of a nutritionally adequate diet, that relationship is lost today. The use of the poverty line for the food stamp program represents a major legislative modification.

However, the substitute bill now under discussion recognizes the need to guarantee that, if the poverty line is to be used as the net income eligibility limit, it must be updated so that it better reflects increases in the cost of living. At present, the poverty line trails the cost of living by 12 to 24 months. Therefore, the substitute mandates that the poverty line be

updated every 6 months to keep pace with inflation so that food stamp eligibility is based on the current poverty line.

STANDARD DEDUCTION

The substitute bill also significantly improves upon the provision for a standard deduction which the Agriculture Committee wrote into law for the first time. The committee, accepting the administration's proposal for a $100 standard deduction, failed to recognize the need to tie such a deduction to the escalating expenses which it was intended to replace. Any deduction must represent the reasonable expenses a household incurs so that we continue the present system of measuring household income available for the purchase of food. It is for that reason that the committee felt that a household's payroll deduction for taxes must be on top of any standard deduction. It is for this same reason that the substitute updates the $100 standard deduction semiannually to reflect changes in the cost of living.

I am especially pleased that the substitute recognizes that working families generally have higher expenses than nonworking households by including a special deduction of $125 for households earning over $150 a month. This continues the program's effort of encouraging households to work by allowing deductions to offset work-related expenses. It is with this spirit that we changed the program's work registration procedures to incorporate the services provided under the WIN program so that households have the supportive services, including day-care, which they need in order to work.

It was because of the program's fundamental work-incentive approach that I was dismayed by the Ford administration's food stamp legislation and by the Department of Agriculture's recently proposed regulations to alter the food stamp program in such an alarming manner. Both the administration's legislative proposals and proposed regulations reject the Congress' intent of treating working households fairly so as to provide incentives for work, not penalties. The administration's legislative and regulatory proposals, in direct contradiction to current law, in fact discriminate against the working household by not allowing such a household to deduct the expenses it incurs solely because it contains members who work. Indeed, the administration does not even allow households to deduct their taxes, much less allow any consideration of the costs of travel, child care, or other work-related expenses. Therefore, I am gratified that the Dole substitute continues the current Food Stamp Act policy of preserving equity between working and nonworking households who are entitled to food stamp aid.

RETROSPECT ACCOUNTING PERIODS

Existing law is very clear about one aspect of the program that we discussed at length in the Agriculture Committee and which is slightly modified in the substitute. This deals with the accounting period that is used to determine initial eligibility for food stamps. Current law demands that a household's current situation—its current need and current income—be the sole criterion of food stamp eligibility. Under the present Food Stamp Act, if a household is faced with a loss of income—due to a layoff or illness, as examples—it is certified for assistance on the basis of that changed status.

The substitute bill changes current law. At the time of initial certification, a household's income over the prior 30 days is to be used to determine eligibility and benefit levels. The substitute's provision, however, does protect the recently unemployed in that such a household does not have to wait over 30 days from its first reasonable attempt to apply in order to receive its authorization-to-purchase card.

By adopting this substitute, we are clearly rejecting the administration's attempt to impose a 90-day waiting period for all households seeking food stamp assistance, the same way we rejected an amendment by the Senator from Nebraska earlier in this debate to re-introduce the 90-day retrospective accounting period to the committee bill. I was pleased that the full Senate refused to make the recently unemployed wait up to 3 months before they could apply for assistance, just as we rejected this proposal in the Agriculture Committee.

I was surprised to see that despite the Agriculture Committee's refusal to accept the administration's plans for a 90-day retrospective accounting period, the administration has proposed this same provision in its new proposed food stamp regulations. As I noted above, this is a clear frustration of Congress' intent in the Food Stamp Act to measure a household's current need for assistance. The administration's proposed regulations, by introducing this 90-day waiting period, denies needy households their access to a nutritionally adequate diet which is guaranteed under sections 2, 4(a), 5(a), and 7(a) of the Food Stamp Act of 1964, as amended. I would hope that USDA, upon final publication of its regulations, conforms to the requirements of current laws by deleting the 90-day retrospective accounting period it has proposed.

MONTHLY REPORTING

The Dole substitute also rejects the administration's attempt to implement the cumbersome administrative practice of a monthly reporting system. The substitute maintains the current practice of requiring participating households to report any changes in their circumstances within 10 days of any change. The substitute reinforces this system by making sure that recipients are provided a form on which they can promptly report any changes. The monthly reporting system, as proposed by the administration and as authorized by the committee, would also have ended the current practice of using a household's current situation to determine benefits, a procedure which is inconsistent with the intent of existing law. By deleting the authority—set forth in the committee's bill—to implement monthly reporting of income systems, we wish to make it clear that no such monthly reporting system may be established.

ASSETS

The substitute also addresses a problem in the committee bill affecting the assets limitation in the program. Under current law, the Secretary has the discretion to establish the particulars of an assets test which households must pass before they are certified, as long as the test does not unreasonably deny needy households access to the food stamp program. But such a test must be flexible enough to allow the unemployed, who might have significant nonliquid assets, to participate in the program, for example. As an indication of our intent, it is helpful to note that the committee and the full Senate have rejected efforts to impose upon the food stamp program what amounts to the SSI program's assets test.

In committee, we realized that we did not have enough information to intelligently legislate an assets test for the program. Therefore, we ordered the Department of Agriculture to undertake a study to give us more information about the effects of any changes in the assets limitation. The substitute does not alter this mandate. It does, however, prohibit the Secretary from making any changes in the current assets rules until the Congress has had the opportunity to review the results of the study for 2 months. After 2 months, if the Congress has not acted, the Secretary may make any changes he considers appropriate as long as households which need the food stamp program to achieve nutritional adequacy are not denied access to the program.

MINORS

The substitute bill amends the committee's bill so as to not treat minors differently from other food stamp participants. Minors, if they reside in eligible households, will continue to have access to the food stamp program. Recent Agriculture Department regulations, that would eliminate minors from the program if they did not live with persons who have a legal obligation to support them, clearly abrogates the Food Stamp Act which includes minors in the definition of an eligible "household" as long as they are a part of the household's economic unit and they consume food in common. The substitute bill reiterates the current statute's requirement that minors remain eligible for assistance regardless of whom they live with.

In sum, I believe the substitute now before us should be overwhelmingly approved by the Senate. It achieves reform without gutting the essence and strength of the food stamp program. It tightens up eligibility requirements, simplifies and streamlines program operation, and insures that the program continues to serve the poor and near poor who need its vital nutritional benefits. I strongly urge my colleagues to vote for this amendment.

Mr. McINTYRE. Mr. President, it is my understanding that the compromise amendment will strike out the provision requiring monthly income status reports from households receiving food stamps. This is welcome news, and I congratulate the authors of the compromise for this action. If this had not been done, I would

have cosponsored such an amendment with the Senator from Massachusetts (Mr. BROOKE).

As cochairman of the Federal Commission on Paperwork I have seen the monsters we have created with well-intentioned reporting requirements. Therefore, I would like to point out what this reporting requirement could mean in terms of sheer paperwork volume.

As of January 1976, there were 5 million households in this country receiving food stamps. To become eligible they had to fill out a four-page application form. This generates 20 million pieces of paper.

Now the administration would ask these same people to fill out yet another form each month, generating another 60 million pieces of paper. I assume the intent of the requirement is to improve policing of the program.

But what in reality will be the effect? Not only will it place a tremendous new burden on the poor and needy and elderly—those least able to deal with the paperwork jungle—it also adds an enormous burden on the State agencies who must mail out, receive back, and process this fourfold increase. State officials have already indicated that the net effect would be less staff time to verify the accuracy of the information collected.

And what would we find, assuming that this mass of data could be assimilated without increasing the bureaucracy necessary to deal with it? I think we would learn that for most of these individuals their income status has not varied.

So we would have the anomolous situation in which a reporting requirement would overwhelm the administrative structure with information of marginal usefulness and prevent the effective policing the requirement was meant to enhance.

I applaud the authors of the substitute for striking this burdensome requirement.

Mr. BUCKLEY. Mr. President, the proposed Dole-McGovern legislation is not a substitute food stamp reform bill. It is a substitute for food stamp reform. It betrays the expectation of the American people that the Congress would really tighten up the food stamp program, reduce its costs, and restrict its benefits to the needy.

It is being called a compromise. It is not a compromise. With all due respect to our friend from Kansas it is a capitulation. It flies in the face of both commonsense and public opinion. It is a legislative affront to the American taxpayer.

It will not reduce the cost of the food stamp program. Quite the contrary. After a full year of food stamp controversy and debate, the Senate has before it a bill which would drastically increase that cost—in the neighborhood of $1.4 billion above current expenditures. Almost one and a half billion dollars. A few more "reforms" like this one will bring us to national bankruptcy.

Both the sponsors of this legislation and the Department of Agriculture have failed to estimate the cost impact of 12 of its 18 provisions. If the Congress approves it without considering its true price tag, it will once again demonstrate to the American people the accuracy of the old piece of political folk wisdom: That no one's life, liberty, or property is safe while the legislature is in session.

Mr. BEALL. Mr. President, no Federal program is in greater need of attention from the Congress than the food stamp program. Over the years, it has grown from a small pilot project to meet the nutrition needs of our poorest citizens to a $6 billion activity which has lost credibility with millions of Americans.

For the past several months, the Agriculture Committee has labored over a variety of proposals in an effort to make meaningful and necessary reforms in this program. Their product, S. 3136, is in every sense of the word a compromise between these proposals.

In many cases, the changes proposed by the committee are, in my judgment, positive steps to insure that those genuinely in need receive benefits with a minimum of bureaucracy and delay.

The limitation of participation to families below the poverty line will insure that those who are not in need will not receive food stamps.

The replacement of the chaotic deduction system, which favored households with many deductions and thus probably high incomes, with a standard deduction will cut substantially present levels of paperwork.

The changes relating to college students will eliminate a significant area of abuse, while at the same time allowing legitimate heads of households who attend college to receive benefits.

There are, of course, other sections which I find equally satisfactory.

However, the committee failed in one major respect by deciding not to eliminate the purchase price for food stamps. Such a change would have been a much-needed improvement over the current program, and would have assured that those Americans most in need of help, the people this program is supposed to help, would receive that help.

At the present time, many millions of people at the lowest income levels are prevented from participating in the food stamp program because they cannot find the cash to "buy" their way into the program. Over one-half of the people with incomes falling below the poverty level do not now participate in the food stamp program. Only 35 percent of the elderly persons participating in the supplemental security income program—SSI—receive food stamps.

We must change the law to allow these needy people to participate in the program. Thus, I enthusiastically looked forward to supporting the amendment proposed by Senators DOLE and MCGOVERN, among others, to eliminate the purchase price.

But suddenly, Mr. President, we find that this amendment will not even be offered. Instead, we have dropped one good idea and substituted in its place several bad ideas.

The Dole substitute includes some good suggestions, among these are:

The requirement that ATP cards must be issued 30 days after application for the recently unemployed;

The provisions providing an additional $25 per household increase in the standard deduction for working families;

The deletion of the $15,000 limitation on income-producing assets which would have been particularly burdensome to small farmers and businessmen.

And the deletion of monthly income reporting requirements which would have generated another 60 million forms a year for the food stamp system which already has too much redtape.

But the substitute also contains some provisions which I cannot consider as desirable, and which in my mind have questionable cost projections.

However, Mr. President, the single most important reason why I will oppose this substitute is that, based on Department of Agriculture cost figures supplied to the Senate yesterday, the substitute, if adopted will result in a significant net increase in the present costs of the food stamp program.

According to the proponents of this so-called compromise, the amendment would add an additional $390 million to the cost of the committee's bill. Or, put another way, it would reduce savings from the present program by $390 million.

Yesterday, Dr. Richard L. Feltner, Assistant Secretary of the Department of Agriculture, informed the Senate that the Department estimates the savings of the committee bill over the existing program at $359 million. We have also been advised that the Dole substitute will increase the committee bill cost by over 1 billion dollars.

The adoption of the Dole substitute would add $4 to $500 million to the cost of the existing program.

So, the bottom line is this:

First. The Dole substitute would add $4 to $500 million now to the cost of the existing food stamp program.

Second. There are several provisions of the Dole substitute which would mandate uncontrollable cost increases in the program following July 1, 1977.

In short, the Dole substitute would bring the day within sight when the food stamp program will break the $7 billion barrier.

Mr. President, I simply cannot support, even under the label of "reform," an amendment which would raise the cost of the food stamp program to the American taxpayer.

We must stabilize and even reduce the cost of Government programs to our citizens.

Unless we reduce expenditures for the food stamp program, this Congress will have lost whatever credibility it has left with the American public.

Therefore, I hope the Senate will defeat this substitute, and allow us to consider on an individual basis that many changes, such as the elimination of the purchase price, which desperately needs to be made in this program.

Mr. BAYH. Mr. President, the food stamp program has been the subject of a great deal of debate for some time now. As originally conceived in 1964, the program's purpose was to provide needy families with the opportunity to purchase nutritionally adequate low-cost food. For the most part, the program has

successfully accomplished its purpose. At the same time, the program has suffered from growth pains. Since its inception in 1964, the program has expanded to include nearly 15 million persons. With this growth has come the charge that there are now too many people on the program who do not really need assistance. Given these charges of abuse and misuse of the program, a number of reform proposals were introduced in the Congress. I was pleased to cosponsor one of the most far-reaching of those reform proposals, S. 2451, the Dole-McGovern Food Stamp Reform Act of 1975. This approach would have achieved necessary reforms while preserving the essential provisions of the program.

Today, the Senate will be considering a substitute for the Agriculture Committee's version of the food stamp reform which incorporates many of the important provisions of the Dole-McGovern bill.

This substitute contains many significant changes from the original committee version of this legislation. Those changes include a semi-annual adjustment of the standard deduction and the poverty level to meet any inflationary cost of living factors, the deletion of the $15,000 limitation on income producing property or tools, a mechanism to insure that recently unemployed workers receive their food stamp benefits 30 days after application and the elimination of the monthly reporting requirements. One of the most important reform measures which I have consistently supported in the past—the elimination of the purchase price—is not included in the compromise substitute bill. While I think it is indeed unfortunate that we will be retaining the purchase price—the single largest impediment to food stamps for eligible families—I will support the substitute as an important step in the right direction of food stamp reform.

1. SEMI-ANNUAL ADJUSTMENT

One of the most important reforms embodied in the substitute is the requirement for semiannual adjustments in both the monthly standard deduction and in the poverty level according to changes in the Consumer Price Index. Under the original committee bill there was no provision for any adjustments in the monthly standard deduction and only an annual adjustment in the poverty level. It is neither logical nor fair to tie eligibility standards to a fixed standard that does not reflect inflationary trends in the cost of living. The semiannual adjustments will allow the necessary flexibility in eligibility standards.

2. $15,000 ASSETS LIMITATION

Under the original committee bill, only the first $15,000 of any income producing property or tools could be disregarded in counting assets. The substitute removes this $15,000 limitation which would effectively prohibit any small farmer or businessman who has property valued at over $15,000 from eligibility for food stamps, even though such an individual's income would otherwise qualify him and his family for food stamps.

3. 30-DAY WAIT FOR RECENTLY UNEMPLOYED

The dramatic rise in the number of people receiving food stamps in the past 2 years is largely attributable to soaring unemployment. Between September 1974 and May 1975, unemployment rose approximately 60 percent from 5.8 to 9.2 percent. Not surprisingly, food stamp participation climbed 30 percent from 15 to 19.5 million people.

Unfortunately, under the committee version of the food stamp bill, recently unemployed heads of households would have to wait 60 days before they would be eligible to receive benefits. The substitute would require food stamps for recently unemployed 30 days after application, a fairer recognition of the economic distress of joblessness.

4. ELIMINATION OF THE MONTHLY REPORTING REQUIREMENT

Under the new USDA proposed food stamp regulations, every household would have to file a form on its income and resources every month. The regulations would require food stamp offices to mail out, receive back, and process 60 millions forms a year at an estimated cost of $2 million.

The regulation would also terminate food stamp benefits for any households that did not properly complete the required form or return it on time. This requirement would work greatest hardships on the elderly, blind, disabled, ill, non-English speaking, or those who cannot read or write, in addition to creating a bureaucratic nightmare of needless paperwork.

Instead of this cumbersome reporting requirement, the substitute would require families to report any changes in their income status—a much more logical and less costly method of assessing eligibility.

With all these needed reforms embodied in the compromise substitute, I will support it despite my reservations over retention of the purchase price. Fortunately, the substitute does provide for a pilot program in States where the purchase price would be elimination. Hopefully this will provide the basis for subsequent elimination of the purchase requirement.

5. PURCHASE PRICE

My concern over the retention of the purchase price is due in no small part of its disparate effect on women. Carol Burris and Maya Miller of the Women's Lobby have compiled some impressive statistics on the consequences of the purchase price for poor women and their families. According to these statistics, 56 percent of all households in the food stamp program are female headed. Women and girls comprise 57 percent of all Americans living below the poverty line. Half of all elderly women are living on less than $1,800 a year—only 5 percent of women over 65 earn more than $5,000 a year. These women are often in desperate need for food stamps, but cannot spare the cash necessary to purchase them.

Other categories of women in addition to the elderly are disproportionately dependent on food stamps. Female headed households are 83 percent of all single parent families and 32.2 percent of these are below the poverty line. There has been an increase of 33 percent in poor female headed households during the last decade.

Women have a greater stake in food stamps because a higher percentage of the poor are women and food stamps is a program to aid the poor. I sincerely hope that after the compilation of a pilot program in several States, the Congress will act to remove the purchase price altogether.

The Food Stamp Act of 1964 was an effort to insure that all Americans have sufficient means to purchase nutritionally adequate diets. The substitute measure before us today strengthens the ability of this program to provide assistance to those it was designed to serve and corrects those defects in the program which have caused its misuse. I urge my colleagues to join me in approving this needed reform.

Mr. PHILIP A. HART. Mr. President, I support the substitute proposal to the committee bill introduced by my distinguished colleague from Kansas, Mr. DOLE, and cosponsored by the committee chairman, Mr. TALMADGE, as well as Senators MCGOVERN, HUMPHREY, JAVITS, HUGH SCOTT, and PERCY. This substitute allows greater benefits to flow into the hands of the truly needy while still effectuating substantial cost savings. It continues the process of streamlining program administration begun in the Agriculture Committee by eliminating many cumbersome and unnecessary procedures still contained in the committee bill. For these reasons, plus those outlined more fully later, I am in full support of this compromise reform package.

THE PURCHASE PRICE

The most important provision in the substitute is the reduction in the purchase price from the 27.5 percent requirement in the committee bill to 25 percent. While I am disappointed that we are not eliminating the purchase price requirement entirely, I am gratified that a compromise has been reached that will ease the burden of participation on low-income households.

Households are now required by law, under the authority provided by section 7(b) of the Food Stamp Act of 1964, as amended, to make a reasonable investment in their food stamps in order to participate in the program. Under that authority, households have been required to contribute between 15 and 30 percent of their adjusted net incomes toward the purchase of food stamps. At the present time, this investment averages about 24 percent of the participating household's net food stamp income. The committee bill would raise the existing purchase requirement to an across-the-board rate of 27.5 percent. While this is significantly lower than the 30 percent figure proposed in legislation offered by the White House and considered in committee, it still represents an unacceptable barrier to full participation by the truly needy.

The Agriculture Department, however, apparently is not content with the reasoned deliberation of this body and the House of Representatives, and thus it is now moving to effectuate its proposal for a 30-percent purchase requirement through regulations already issued in proposed form. This proposal has already been rejected by the Agriculture Committee. Weeks of hearings and care-

ful consideration by committee members have already demonstrated that a 30-percent purchase requirement would force many needy families off the food stamp program in contravention of congressional intentions under the Food Stamp Act.

These regulations represent an attempt to work a basic change in the program's operation under existing legal authority as it clearly violates section 7(b) of the act. This section requires participating families to make a reasonable investment in return for food stamp aid. It cannot support the Department of Agriculture's attempt to deny otherwise eligible households this assistance by setting the purchase prices at a level beyond their reach.

Any further rise in the purchase price would require an unreasonably high investment for eligible households. Study after study has concluded that the major reason given by households for leaving the program has been the burdensome purchase price requirement. Raising this price significantly beyond present levels would drive families, that already have trouble amassing the cash to buy stamps, from the program. It would also further raise the barrier to participation for the 50 percent of families below the poverty level that do not now receive food stamps.

Section 7(b) does not now justify setting the purchase price at 30 percent of adjusted net income—let alone 30 percent of adjusted gross income—and the substitute bill will make sure that the purchase price is set at 25 percent of adjusted net income. Although we are raising the purchase price slightly from its present average of 24 percent, for all intents and purposes we are voting to maintain current purchase levels.

COST OF LIVING ADJUSTMENTS

The committee bill, as now written, makes inadequate provisions for the crippling effects of inflation on program eligibility and benefits. The substitute would correct this omission by adjusting both the income eligibility cap and the standard deduction to offset the effects of rising costs of living. Semiannual updates, tied to the Consumer Price Index, are essential if we are to continue to meet our national commitment to eradicate hunger by guaranteeing every citizen access to a truly adequate diet, as provided for by the present act. Otherwise, needy Americans will witness the inflationary spiral gradually undermine the value of food stamp aid by lowering the income ceiling, in real dollar terms, and by eroding the standard deduction.

The updates are especially crucial since we are adopting the official poverty line as the measure for food stamp assistance. This line, now set at $5,050—and recently modified to $5,000—for a family of four, has been severely criticized since its inception as an arbitrary standard of poverty. It contrasts sharply with Bureau of Labor Statistics estimates that four-person families need in excess of $9,000 to maintain a minimally decent living standard.

I would prefer an income cutoff point set at a higher level to allow a more gradual tapering off of benefits.

I am deeply troubled by the Senate's apparent acceptance of the poverty line as the standard for net income eligibility. It is simply too low. Nevertheless, I am prepared to vote for this provision in order to secure the other provisions in the compromise package.

At a minimum, we must adjust the poverty line more frequently than is done at the present time. It now lags behind the Consumer Price Index by 12 to 24 months. Without semiannual updates, the already low income ceiling would disqualify households that are actually below the poverty level. This cannot be allowed to happen and, fortunately, it is taken care of by the update provision.

The substitute bill underscores the point that the administration's proposed regulations are a violation of the current Food Stamp Act. The Department announced that—commencing on June 1, 1976—the eligibility limit for a four-person household that is not receiving welfare assistance will be $5,500. Yet $5,500 reflects the average poverty line for the 12 months of calendar year 1975. Translated into understandable terms, the poverty line as of approximately June 1975 was $5,500. Yet, commencing in June 1976, and presumably through May 1977, the June 1975 poverty line will serve as the basis for food stamp program eligibility under the proposed regulations.

It is evident, therefore, that the Agriculture Department's newly proposed eligibility standard will be 12 to 24 months out of date and will cause many families—with below subsistence earnings—to be dropped from the food stamp program. This is a blatant violation of our current law and it would violate the provisions of the substitute bill. The eligibility limit in the new regulations is particularly unlawful because it is applied only to nonpublic assistance recipients, who are largely wage earners, and because no deductions are applied for tax and social security withholdings.

The committee bill also fails to adjust the standard deduction to account for inflation. This deduction is intended to streamline the program by eliminating the complicated system of itemized deductions that now exists and that causes frequent certification error. It was not intended to be gradually reduced, in real dollar terms, as the cost of meeting necessary nonfood expenses, now compensated for by allowing actual costs, grows. Again, fortunately, the substitute corrects this deficiency in the committee bill through semiannual adjustments.

THIRTY DAY RETROSPECTIVE ACCOUNTING PERIODS

The Food Stamp Act of 1964, as amended, is unambiguous on the question of what accounting period is to be used when judging an applicant's initial eligibility for food stamps. Applicants are legally entitled to have eligibility and benefits determined on the basis of their life circumstances at the time of application. The household's present income forms the basis for calculating its present need for food assistance.

The Ford administration has been urging that this system be replaced by a 90-day look-back period for calculating available income, whereby the applicant's income for the previous 90 days is used for determining initial eligibility. The 90-day retrospectve accounting period cannot be legally justified under the present law. White House efforts to implement this look-back provision administratively through regulations, thus, cannot be justified under the statute.

Ninety day retrospective accounting was debated and rejected by the committee. It has been debated and rejected by the Senate on the floor when the body defeated an amendment introduced by Senator CURTIS from Nebraska by a large margin.

The committee bill does, however, change the statute to provide for 30-day retrospective accounting. The substitute amends the 30-day retrospective accounting period to ameliorate its harmful impact for households that suffer losses of earned income—such as any family whose household head is laid off or is subject to periodic losses of income due to seasonal or unstable jobs. Such families would have eligibility calculated on the basis of their present income situation rather than on the basis of previous income that is no longer actually available. This change prevents the denial of food stamp benefits to the recently unemployed and families with unstable incomes at the very time when they need food assistance the most.

In addition, the substitute insures that households, in this situation, would be entitled to apply for food stamps immediately and receive an authorization-to-purchase card within 30 days of their initial attempt to secure assistance.

MONTHLY INCOME REPORTING

The substitute further guarantees that food stamp benefits reflect a family's true needs by prohibiting the Department of Agriculture from instituting a system of monthly income reporting. Under monthly income reporting, households would be required to submit reports to the food stamp program each month detailing their income from the previous month. This information would then be processed and would form the basis for calculating benefits in the following month.

For example, a family with $400 income in February would report that income to the program in March. Food stamp benefits in April would then be based on this income figure. If that family experiences a loss of income and actually received only $100 income during March, it would need more aid than it would get if it still had $400 in monthly income. Yet its benefits levels would be based on the outdated $400 monthly income figure.

Paradoxically, if the family breadwinner received a sharp income increase to, as an example, $800 per month, that household would receive a windfall from the program since benefits would still reflect the earlier income figure, even though it would no longer be needy.

Monthly income reporting is clearly unlawful under the Food Stamp Act of 1964, as presently written, since eligible households could receive more or less benefits than they actually needed to procure nutritional adequacy. This system, however, not only hurts food stamp recipients, it presents program administrators with a nightmare as well. Each month, forms—more than 120 million

annually across the country—would have to be mailed out and processed when returned. Additional caseworkers would have to be hired to review each of the income reports, regardless of the fact that 90 percent of the households would report no change in income or family circumstances. What is more, monthly income reporting is redundant with certification practices and income reporting obligations now present in the program and retained under the substitute.

Under the administration's proposed regulations, the monthly reporting of income system would be coupled with the 90-day retrospective income period set forth in those regulations. As a result, the report provided in March about February's income would be added to the income reports for January and December. If the February income figure was $400, and the January figure was $300, and the December figure was $200, the average monthly income would be $300 and it would be on that basis that the household is certified for the month of April—even though the true income situation for April could be radically different.

These retrospective accounting and monthly income reporting procedures would frustrate the present requirements under the Food Stamp Act that mandate that food assistance be provided to currently needy people and be denied to people who no longer need assistance. I am glad that the substitute bill will not cause a substantial departure in the act's current income policy.

THE "RUNAWAY CHILD" PROVISION

Present law permits groups of people living under the same roof to apply as a single household if they purchase and prepare food in common and form an economic unit sharing expenses and pooling income. The committee bill would automatically disqualify an otherwise eligible minor, if the child lived in a household where no one owed a legal duty of support to that child. It would create hardship in cases where a parent is either unwilling to care for a child or has marginal abilities to do so. It violates the definition of "household" in the present law and would clearly be unlawful if issued as regulations in the form proposed by the Department of Agriculture. More importantly, it violates sound public policy and is extremely harmful to young children struggling to survive without parental support—certainly a group that should not be penalized by the withdrawal of food stamp assistance.

$125 STANDARD DEDUCTION FOR WORKING FAMILIES

The present law has strong incentives for work. All taxes and mandatory payroll deductions are subtracted from gross income. All child care costs and work-related expenses—such as transportation—up to $30 a month are also deductible. In addition, food stamp benefits are reduced gradually as income rises so that families retain their incentive to earn more.

The committee bill, while allowing a deduction to working families for taxes, fails to provide any offset other than the $100 standard deduction for the added costs of earning income. While I am certainly pleased that the committee bill includes a specific deduction for taxes, it does not go nearly far enough in providing work incentives. A deduction for taxes is clearly required by the present statute—which bases income determinations on income actually available to households—and must be continued under any sensible reform of the program.

Otherwise, working families would have their net food stamp income artificially inflated by including money already paid out in taxes and not actually available for food purchasing. These families would not only be penalized relative to social security beneficiaries and public assistance recipients, they would not have sufficient cash to purchase an adequate diet without expenditures exceeding legal limits.

Likewise, job-related expenses—such as child care, transportation, and uniform costs—must be met. That money is also unavailable for buying food and should be deducted. The substitute would accomplish this goal by allowing an additional $25 deduction for households earning in excess of $150 per month. The substitute bill would preserve the work incentives required under the current act, and they demonstrate that the proposed regulations—which provide a uniform $100 standard deduction, without regard to any increases necessary to reflect work expenses—violates the statute and would deny working families with access to nutritional adequacy.

I strongly believe that the reform package, in toto, represents the best compromise of the competing viewpoints in the Senate. It achieves substantial reform without losing sight of the goal of this most well-intentioned program—the feeding of the hungry.

Mr. LEAHY. Mr. President, I rise in support of the substitute to the committee bill. This package of amendments represents a bipartisan compromise among Senators with a broad spectrum of political persuasion. It continues our national commitment to guarantee every American a nutritionally adequate diet. It also corrects a number of deficiencies now present in the food stamp program—deficiencies that have allowed some abuse of this well-intentioned program. As such, this substitute deserves the full support of the Senate as a whole.

SETTING THE PURCHASE PRICE AT 25 PERCENT OF A HOUSEHOLD'S NET INCOME

Section 7(b) of the Food Stamp Act of 1964 specifies that households are to make a "reasonable investment" toward the purchase of their food coupons. The law, thus, requires that the purchase price be set at a level low enough to permit eligible families to buy their way into the food stamp program. Households cannot lawfully be forced to pay a food stamp purchase price that they cannot afford or that would cause them, due to other costs for necessities, to drop out of the food stamp program.

As the food stamp program now operates, the purchase price requirement is based on a sliding scale of between 15 to 30 percent of a household's net income after allowable deductions. Under this system, households pay an average of 24 percent of their net, adjusted income for food stamps. At these percentages, eligible households now have the reasonable access to the program that was intended by Congress and that is required by section 7(b) of the present act.

The committee bill, without substitution, would substantially alter this system by establishing a flat rate purchase price requirement of 27.5 percent. This high rate, and the even higher rate of 30 percent proposed by the administration, would present an unacceptably high barrier to full participation. Requiring low-income families to pay 27.5 or 30 percent of net income to buy into the program would eliminate a large percentage of participating households from receiving much needed food stamp assistance. These families would be simply unable to collect sufficient cash from already overstrained budgets to buy food stamps.

The substitute offered yesterday by the *distinguished Senator from Kansas* would lower the purchase price requirement from 27.5 to 25 percent. This percentage is in line with current program averages and maintains the commitment to a reasonable investment now in the current law.

MODIFICATION OF 30-DAY RETROSPECTIVE ACCOUNTING

At present, food stamp eligibility and benefits are based on a household's actual current need. This is done by determining the family's anticipated income and anticipated expenses over the certification period. The matching of benefits and need is dictated by the central purpose of the food stamp program—to permit low-income families to purchase a nutritionally adequate diet—as specifically enumerated in sections 2, 4(a), 5(a), and 7(a) of the Food Stamp Act. The committee bill replaces this system with a 30-day retrospective accounting period for determining initial eligibility. Under 30-day retrospective accounting, applying households would have their eligibility and benefits calculated on the basis of income from the prior 30 days.

An amendment to the committee bill introduced by my distinguished colleague from Nebraska, Mr. CURTIS, would have extended this "look back" period even further. Had this amendment passed, the initial eligibility determination would have been based on income averages over the previous 90 days—an average that bears no relationship to the current need for food stamp assistance. The Senator's proposed amendment was entirely inconsistent with the act and its guarantee of an adequate diet to every citizen. It would have resulted in severe hardship for households with recently laid-off breadwinners and families with fluctuating incomes. I was gratified when this amendment was resoundingly defeated by the Senate.

The committee bill is also unacceptable in its present form. The recently unemployed would be required to wait 30 days before applying since, prior to

the end of this period, initial eligibility would be based on working income. Again, assistance would have no relationship to actual need. The substitute would provide an exception to 30-day retrospective accounting for households experiencing a sudden loss of income. Thirty day retrospective accounting, with this exception, is entirely consistent with the act's guarantee of a nutritionally adequate diet to low-income families. Recently laid-off breadwinners and their families would be able to apply immediately on the basis of their current situation as would households with fluctuating incomes.

These households could apply on the basis of actual available income and program administrators would have to make sure that applicants receive an ATP card by the 30th day from their first request for assistance. Families with stable incomes, on the other hand, would have eligibility and benefits based on the prior 30 days income. This would work no hardship on these households while simplifying the application process considerably.

MONTHLY INCOME REPORTING PROHIBITED

The substitute bill would prohibit the Department of Agriculture from implementing any system of monthly income reporting. Under such a system, participating households would be required to file forms each month detailing income from the previous month. That form would then be used to calculate benefits for the next month. Thus, benefits levels would be based on income data that is obsolete by 2 or more months.

Income and need would be out of synchronization. Many households, with reduced income in subsequent months, would be denied adequate food stamp assistance. Still other households, with rising income during this period, would receive more Federal "bonus" dollars than necessary to maintain an adequate diet. In addition, households that failed to file the form, because they could not read and write or because they have other disabilities, would be automatically terminated, regardless of actual need. Monthly income reporting is an administrative nightmare as well, since food stamp offices would be forced to process some 90 million additional forms a year.

For these reasons, monthly income reporting like retrospective income accounting, is entirely inconsistent with sections 2, 4(a), 5(a), and 7(a) of the current law. The substitute would prohibit USDA from implementing this costly and ineffective reporting system. Instead, current rules requiring prompt notification of changes in eligibility factors would be enacted.

COST-OF-LIVING UPDATES FOR THE POVERTY LINE AND STANDARD DEDUCTION

As in S. 3136, the substitute would retain the "poverty line" as the net income ceiling for participation in the food stamp program. The use of the poverty line as an income eligibility standard is, at best, suspect as a measure of the need for assistance in obtaining a nutritionally adequate diet. It was never intended to be a standard for food stamp assistance, but merely a target for the war on poverty. What is more, since 1969 the poverty line has not been linked to food price inflation but instead has been pegged to the Consumer Price Index generally. There is little, if any, relationship between this measure and the actual need for food stamps. Nonetheless, I am prepared to accept this ceiling in the context of the other provisions of the compromise substitute.

At a minimum, the poverty line must be adjusted to better reflect increases in the cost of living. Currently, as written in the committee's bill and in the administration's new regulations, the poverty line lags behind inflation by 12 to 24 months. This lag cannot be tolerated in a program designed to aid the needy—the very group hardest hit by the inflationary spiral. The substitute remedies this defect in the committee bill and the new regulations by providing for a semiannual inflationary adjustment.

The committee bill also neglects to adjust the standard deduction to account for inflation. Families would have the same $100 deduction in 1980 as in 1976. Inflation would erode the value of the standard deduction as a replacement for the present system of itemized deductions that now automatically reflect inflation by deducting actual expenses. The substitute would prevent this erosion through a semiannual adjustment to reflect changes in the Consumer Price Index.

ADDITIONAL $25 STANDARD DEDUCTION FOR WORKING FAMILIES

The present program encourages households to work by allowing an offset for taxes and mandatory payroll deductions, providing an itemized deduction for work-related expenses and child care, and gradually scaling benefits down as income increases. S. 3136 only goes part of the way in meeting the particular needs of the working poor. This failure to provide equity to the employed and adequate work incentives is contrary to the entire thrust of the present program.

The committee bill, fortunately, allows a specific deduction for Federal, State, and local taxes. Failing to allow a deduction for taxes would penalize working families. This result was not intended when Congress enacted the current law. It was sound public policy then and it is sound public policy now. I am, therefore, gratified that both the committee bill and the substitute continue the Food Stamp Act's policy of providing working families with a deduction for taxes before any deductions are applied to the income calculation.

Unfortunately, S. 3136 fails to provide any deduction to offset the incidental expenses connected with employment. Working families are forced to incur expenses—such as transportation, uniform costs, and child care—that nonworking families receiving social security, supplemental security income and public assistance simply do not have. A single $100 standard deduction applied to both the working and nonworking is inequitable to families with breadwinners that must meet these added expenses in order to work. The absence of a deduction for work-related expenses is not only inequitable—it also creates a disincentive to work. Nonworking families without job-related expenses would have relatively higher net incomes available to purchase food than their working counterparts. This we cannot tolerate. The substitute would correct this problem in the committee bill by allowing an extra $25 deduction for families earning more than $150 monthly.

In addition, the substitute bill eliminates the committee's provision that would disqualify minors from the food stamp program if they do not reside in the households of the person or persons who have a legal obligation to support them. If such a provision was promulgated in administrative regulations, it would be illegal and would violate the statutory "household" definition. In the State of Michigan alone, I have been told, more than 27,000 families would be harmfully affected by such a provision. I think that this provision in the committee's bill is unnecessary and harmful, and I am glad that the substitute bill eliminates that provision entirely.

In closing, Mr. President, I wish to speak briefly about new regulations, dramatically altering program operation, that have been recently proposed by the Department of Agriculture. These regulations, if issued in final form, would administratively implement President Ford's legislative reform proposal.

These regulations are, quite clearly, motivated by the exigencies of this national campaign year. They were written in secret, without consultation with the Food and Nutrition Service which administers the day-to-day operation of the food stamp program at the Federal level. They were announced with great fanfare in the closing days of the New Hampshire primary. They represent a conscious effort to bypass the Congress in the midst of legislative debate.

Since these regulations arise from political, rather than programmatic, considerations, they are an unsound change of the food stamp program. In passing this substitute, the Senate is repudiating this patent political effort to circumvent the legislative branch and win votes at the expense of adequate diets for the poor. Many specific provisions in the substitute, such as the modification of 30 day retrospective accounting, prohibition of monthly income reporting, repudiation of the 30 percent purchase price requirement, and deductions for taxes and work-related expenses, specifically countermand provisions in the proposed regulations. I am hopeful that the administration will learn a lesson from the passage of this substitute and withdraw these regulations before final issuance.

Mr. JAVITS. Mr. President, the substitute bill now before us represents a sensible approach to food stamp program reform. It is the product of responsible compromise, a process that presents us with a reform package that deserves our support. This substitute bill affords us the opportunity of approving legislation which truly reforms the program without lessening the Food Stamp Act's requirement guaranteeing millions

of low-income Americans the right to a nutritionally adequate diet. I am pleased to cosponsor this substitute.

I am especially concerned about the need quickly to enact legislation so that the recent regulations proposed by the Department of Agriculture will not go into effect. Those regulations, which radically alter program operation, would cause a severe administrative problem for the States which they are hard-pressed to tackle. I hope that the passage of this legislation will persuade the administration to withdraw its proposed regulations. Mr. President, I would like to take this opportunity to discuss some important provisions of this substitute as they relate to current law and the bill as reported out of the Committee on Agriculture and Forestry.

The substitute retains the committee's provision to lower food stamp eligibility to the poverty level, but modifies the committee's action to deal with a number of problems associated with the use of the poverty line. One of the major deficiencies of the poverty line is that it has grown away from its original relationship to the cost of a nutritionally adequate diet. At the time the poverty line was created, it was set at a level equal to three times the cost of the economy food plan. This food plan was formulated by the Department of Agriculture and was intended to measure the cost of a nutritionally adequate diet although the economy food plan has been criticized by many experts as being inadequate and below the cost level of a good diet. This three-to-one relationship between the poverty line and the alleged cost of nutritional adequacy no longer exists; it disappeared when the definition of the poverty line was transformed in 1969 so that it no longer is related to the alleged cost of an adequate diet. Therefore, the poverty line is at best a dubious standard of need for the food stamp program which, under law, is supposed to base eligibility on the need for a nutritionally adequate diet, not abject poverty.

Moreover, even if the poverty line were an acceptable standard for the need for nutrition assistance—which is the only standard recognized by the current food stamp statute—it lags so far behind the cost of living so as to make it fail as a useful measure of need. The substitute now being considered at least resolves this 12 to 24 month time-lag problem by requiring semiannual updates in the poverty line based on increases in the Consumer Price Index. The new regulations proposed by the Agriculture Department, and the committee's bill, would establish eligibility standards well below the current poverty line. Therefore, the regulations and the committee's bill would abrogate the current statute's policy of providing aid to all families that do not have access to nutritional adequacy.

The substitute also improves upon the committee's application of a standard deduction for food stamp households, a deduction which is intended to replace the current system of deductions now afforded to participating households. The first improvement is to update the $100 standard deduction semiannually so as to reflect the price increases of the expenses it replaces.

The second improvement that the substitute makes with the committee bill is to include an extra $25 deduction for households which have earned incomes over $150 a month. I had proposed exactly this reform in my own bill. This recognizes that working households have costs associated with working, and preserves the program's aim of providing households with work incentives. I am pleased that this aspect of the program is strengthened, especially since the proposed legislation and regulations of USDA undercut this goal. The Department's regulations fail to provide working households with a reasonable deduction to offset the expenses they must incur.

Under USDA's proposed regulations, it might have been more beneficial for a working parent with children to accept welfare rather than have to pay huge child care costs plus other work-related expenses. Indeed, USDA's regulations, unlike the committee's bill and the substitute, do not even allow working households to subtract their payroll taxes in addition to the standard deduction—an omission that contravenes our intent in the current law and which, in fact, discriminates against those who work.

The whole idea of the eligibility limits and the standard deduction is to measure that amount of income which reflects the need for nutrition assistance. If the standard deduction is inadequate (as it is in USDA's regulations) it is impossible to gear food stamp benefits to the needs of participating households. Since current law is intended to give needy households the opportunity to afford a nutritionally adequate diet, and since benefits are linked to a household's net income, a standard deduction must be structured so as to accurately reflect that net income figure.

Thus, working households must be allowed an extra deduction, a concept contained in the substitute bill. The deduction system in the committee's bill is inadequate and will deny access to nutritional adequacy to working households, and the new regulations are worse and are much more discriminatory against working families. The new regulations would, it seems to me, violate the current law's eligibility and work incentive policies, and the substitute bill underscores that these regulations should not and cannot be legally implemented.

That brings us to the purchase requirement. Current law provides in section 7(b) that a household's purchase price for food stamps "shall represent a reasonable investment on the part of the household, but in no event more than 30 percent of the household's income." Thus the criterion is a "reasonable investment" with the maximum charge being 30 percent of a household's adjusted net income. The goal is to afford participating households reasonable access to the benefits provided through the program. At present, there is a sliding scale of purchase prices with the average household paying about 24 percent of its adjusted net income.

The regulations purpose to increase the purchase price to 30 percent of adjusted gross income across-the-board represent a major change in program operation not authorized under existing law. That 30-percent figure is a maximum figure under the law, and is intended to be used solely for those highest income eligibility households for which the 30-percent figure might represent a reasonable investment. It is with this understanding that the committee rejected a 30-percent purchase price for all households and utilized, instead, a 27.5 figure. The substitute further clarifies this intent by lowering the figure to 25 percent of net income. This action rejects the notion that a higher purchase price for all households is acceptable.

I am pleased that the committee and the substitute have not endorsed the plan to base eligibility for food stamps on income received over the prior 90 days. Current law provides that a household's current situation be evaluated as the basis of eligibility. This reflects our intent to guarantee access to nutritional adequacy as soon as there is a need for assistance and the eligibility criteria are met. A 90-day retrospective accounting period, which the USDA has put into its proposed regulations without waiting for congressional authorization for changing the statute's policy of basing eligibility on current income, would create serious problems for the recently unemployed who might immediately need the boost in purchasing power provided by the food stamp program.

The substitute changes current law so that, for initial certification, a household's situation over the past 30 days must be considered in determining eligibility. The substitute makes clear, however, that a recently unemployed person would get food stamp aid within 30 days from its first request for assistance, and eligibility and benefit levels for such a household would be based on current income.

The substitute rejects another proposed regulatory and statutory change that would end the current law's requirement that, once a household is receiving food stamps, its income must be based on its current situation. The committee bill authorized the Secretary to institute a monthly reporting system. It is clear that, if the law where changed to authorize such a new system, USDA would implement it. Indeed, the Department's proposed regulations, anticipating such authority, provide for a monthly reporting system.

There are two major problems with a monthly reporting system, which is why it is prohibited under the substitute. First, under such a reporting system a household would have to fill out a form detailing its income for each month. It would then have to return that form to the food stamp office, which would use it 2 months later to determine that household's eligibility and benefits. Thus, a determination of continued eligibility and purchase price would be based on information which is at least two

months old. This would represent a major change in current law.

The second problem is administrative. The monthly reporting system requires the State agency to hire additional staff to read and process every form—even though the vast majority would show no changes. This is tremendously expensive and highly cost-ineffective. In addition, it is unnecessary insofar as it duplicates program requirements current in effect. At present households that experience a change in their circumstances must report such a change within 10 days. This is sufficient to deal with changes in household circumstances. The substitute, therefore, rejects the idea of monthly reporting. Instead, it writes the current practice into law and strengthens it by requiring that all households be given a postage-free form on which to report changes. The substitute, in my view, represents the more sensible approach.

There are a few other improvements contained in the substitute which I would like briefly to outline:

ASSETS

In addition to the USDA study on assets ordered by the committee, the substitute prohibits the Secretary from making any changes in the assets limitation—the amount of assets a household can own and still be eligible—until 2 months after the study is sent to Congress. I believe this to be a wise modification in the committee bill so that we can properly judge the effects of any changes. We must make sure that any changes do not deny access to the program for people in need of food assistance.

MINORS

The committee bill changed the statute's definition of a food stamp "household" so as to exclude certain minors from participation. The substitute retains current law. If the purpose of this administration-proposed change is to knock students out of the program, it should be attempted in a straightforward manner instead of asking the Congress to legislate students out of the program through the back door. The proposed regulations by the Agriculture Department seek to make a similar change—a change that conflicts with the statutory household definition. The substitute bill retains the statute's current policy that needy minors must be allowed to participate in the food stamp program regardless if they live in a household in which no one has an obligation to support them.

LUMP-SUM PAYMENTS

Current law counts lump-sum one-time payments as assets. The committee bill changed this, and proposed counting such items as tax refunds, gifts, and the like as income. The substitute compromises by excluding as income—but counting as assets—only tax refunds, tax credits, and retroactive payments provided by programs authorized by the Social Security Act.

Mr. President, the substitute is a good reform package. I believe it to be a better reform package, seen in its entirety than the committee's original bill. The substitute tightens up this program, eases the administrative burden, and generally answers the need for reform. I urge the adoption of the substitute.

The PRESIDING OFFICER. The bill is open to further amendment.

If there is no further amendment to be proposed, the question is on agreeing to the substitute amendment.

Mr. ALLEN. 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 McGovern-Dole amendment in the nature of a substitute, as amended. 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 Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY) and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER) and the Senator from New Mexico (Mr. MONTOYA), are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY) would vote "nay."

The result was announced—yeas 49, nays 30, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—49

Abourezk	Eagleton	Magnuson
Bayh	Ford	Mansfield
Biden	Glenn	Mathias
Brooke	Hart, Philip A.	McGee
Bumpers	Haskell	McGovern
Burdick	Hatfield	Moss
Cannon	Hathaway	Muskie
Case	Hollings	Nelson
Chiles	Huddleston	Packwood
Clark	Humphrey	Pearson
Cranston	Javits	Pell
Dole	Kennedy	Percy
Durkin	Leahy	Randolph
Ribicoff	Stevenson	Weicker
Schweiker	Stone	Williams
Scott, Hugh	Taft	
Stafford	Talmadge	

NAYS—30

Allen	Fong	Nunn
Baker	Garn	Proxmire
Bartlett	Goldwater	Roth
Beall	Griffin	Scott, William L.
Bentsen	Hansen	Sparkman
Byrd, Harry F., Jr.	Helms	Stennis
Byrd, Robert C.	Johnston	Thurmond
Domenici	Laxalt	Tower
Eastland	Long	Young
Fannin	McClure	
	Morgan	

NOT VOTING—21

Bellmon	Hart, Gary	Metcalf
Brock	Hartke	Mondale
Buckley	Hruska	Montoya
Church	Inouye	Pastore
Culver	Jackson	Stevens
Curtis	McClellan	Symington
Gravel	McIntyre	Tunney

So the Dole-McGovern amendment in the nature of a substitute (No. 1571), as amended, was agreed to.

Mr. TALMADGE. Mr. President, if there be no further amendments to be proposed, I ask for the third reading of the bill.

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

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

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, on the engrossment of S. 3136, to make any necessary technical and clerical corrections.

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

Mr. TALMADGE. Mr. President, I understand there will be a request for the yeas and nays on passage, which I anticipate will occur in less than 10 minutes.

I now yield to the Senator from Alabama.

Mr. ALLEN. First, 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. I thank the distinguished chairman for yielding me time on the bill.

Mr. President, I am strong for——

The PRESIDING OFFICER. Will the Senator suspend until order is restored? The Senate will be in order.

Mr. ALLEN. Mr. President, I am strong for genuine food stamp reform, and I felt that the committee bill afforded some small measure of reform. I thought at the time the committee bill was reported out that it would save some $630 million. Subsequent data and an analysis of that data indicated that the saving under the committee bill would be minuscule, and that the added cost of the Dole-McGovern substitute would add some $400 million to $500 million to the cost of the present program. So what we have now before us is the bill as amended by the substitute. We do not have the committee bill, we have the substitute as the bill that is to be voted on.

This is no reform. This is reform in reverse, and I predict that the bill, if it emerges from the conference and is approved by the Senate and House of Rep-

resentatives in this form, will face a veto by the President, and that will mean we will have to fall back on the $4.8 billion program that the Department of Agriculture, at the instance of the President, has promulgated to go into effect July 1st.

So I do not foresee any future for this bill. Since it adds almost a half-billion dollars to the cost of the present program, I say this bill is not a reform measure, because I do not believe that any bill that would add $500 million to the cost of a program much in need of reform is true reform.

Therefore, even though I strongly favor reform of this program, I do not believe that any bill that would add this much to the cost of the existing program is reform, and for that reason I will have to vote against the bill.

Mr. TALMADGE. Mr. President, I have repeatedly inserted in the RECORD the estimates of the Congressional Budget Office that they think this proposal will save $240 million over existing law. While that is not as much as I would like to save, considering the mood of the Senate that was as much as this body would agree to.

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

The PRESIDING OFFICER. Does the Senator from Kansas yield back his time?

Mr. DOMENICI. Mr. President, I yield back the 5 minutes that I requested, and I thank the Senator from Georgia.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HOLLINGS. Mr. President, I wish to take a moment to commend the distinguished chairman of the Agriculture Committee. Mr. TALMADGE, for the exceptional leadership he has displayed in guiding the Agriculture Committee and the Senate toward meaningful reform of the food stamp program. Without the chairman's leadership and ability to bring together all philosophies within the committee, Congress would never be able to enact meaningful food stamp reform legislation this year. With his leadership, enactment is all but certain.

Although I do not approve all aspects of the reform legislation, its overall merit is apparent when one recognizes that it would save taxpayers almost one-fourth of a billion dollars and at the same time improve benefits for the needy. More specifically, S. 3136 reduces administrative costs through the use of a standard deduction, limits food stamp participation to families with a net income below the poverty level, and gives special consideration to the nutritional needs of the elderly. Work registration, under S. 3136, would have real teeth for the first time—making ineligible most college students and the voluntarily unemployed. Penalties for food stamp law violations are stricter and prosecutions more easily pursued. In short, this legislation moves toward restoring credibility to the food stamp program while maintaining our commitment to the nutritional well-being of the country's neediest.

While I support most of the reform proposals contained in S. 3136, there is one major reform amendment that will not be adopted by the Senate, but which I hope will be accepted in future legislation, for it represents the most equitable approach to the interrelated issue of food stamps and welfare reform. The proposal is, of course, elimination of the purchase requirement—which simply means that people would no longer have to "buy" their food stamps. If they are eligible, they would automatically receive food stamps worth the bonus value of their stamps under the current system. For example, a working family of four with $250 in monthly net income entitled to $166 worth of stamps for $76 would, under this change, simply receive $90 in stamps.

Because the current system requiring a cash commitment has created so many problems the arguments for elimination are obvious and compelling.

First, without a purchase requirement, bureaucratic overhead is reduced, printing costs are cut. The program is streamlined and Government waste is cut by $100 million.

Second, no cash transactions between recipients and vendors means the days of million dollar vendor frauds are over.

Third, the amount of stamps in circulation would be cut by one-third, thereby reducing the exaggerated visibility of food stamps. A working mother paying $130 for $166 worth of stamps will no longer be unrightfully stigmatized as a "freeloader."

Fourth, reducing the amount of one's disposable income in the form of stamps will greatly reduce the incentive to sell stamps for dollars on the black market. Also, more income will be freed for nonfood essentials such as especially high utility bills or adequate clothing for schoolchildren.

In view of the positive benefits to be derived from the elimination of the purchase requirement, most objections are easily outweighed. However, there is one consideration that has been recognized by the Senate as a prohibitive roadblock to adoption of this amendment and has led to the adoption of the current compromise. Simply put, the elimination of the purchase requirement would cost a great deal of money, perhaps $625 million in fiscal year 1977 and certainly more than that in subsequent years. Of course, this increased cost would be due to greater participation by persons for whom the program is intended to serve. Elderly couples, working poor, welfare mothers and children, all living with net incomes below the poverty level and most unable to afford the purchase requirement, would have the opportunity to supplement their income with food stamps.

Would this amendment change the food stamp program from a feeding program to a welfare program or income supplement? I do not think so. We are not giving money away. We are providing coupons for food to poverty income households and allowing them to budget as they see fit with the limited nonfood stamp income available to them. The idea is simple and equitable. It is also costly. But maintaining a cumbersome and unjust system is not the way to save the tax dollars.

Mr. President, at this time I wish to express my support for the substitute bill offered by Senators TALMADGE, DOLE, and MCGOVERN. It is a truly comprehensive reform package which, while imperfect in its provisions, is the most practical vehicle available for the desperately needed reform desired by everyone.

Mr. PERCY. Mr. President, I am pleased to cosponsor the substitute bill which has been fashinoned under the leadership of the Senator from Georgia (Mr. TALMADGE), the Senator from Kansas (Mr. DOLE), and the Senator from South Dakota (Mr. MCGOVERN).

I was not a sponsor or cosponsor of any of the major food stamp reform bills. I felt that none of the available alternatives fulfilled the objectives of simplifying the administration of the program and curbing the potential for fraud and abuse by recipients as well as participants in the sale, use, and redemption of coupons while at the same time assuring the truly needy the means to purchase a nutritionally adequate diet.

Because each of the alternatives was flawed in some regard, I introduced 14 amendments to the so-called Dole-McGovern bill which had the effect of adding to that bill what I felt were the most significant features of other major proposals.

The substitute bill which I am cosponsoring does not contain all the features which I favor and which were embodied in my amendments. It does not contain all the features which any of its cosponsors might like to see in a bill.

It is, however, the product of a sincere effort at compromise in order to bring before this body a strong, workable, and fair food stamp reform bill. Moreover, the substitute bill is closer in spirit and detail to the one I had in mind when I introduced my amendments than was the original committee bill.

I wish to commend by colleagues who participated in the drafting of this bill. I commend and congratulate Mr. TALMADGE, Mr. DOLE, Mr. MCGOVERN, Mr. JAVITS, Mr. HUMPHREY, Mr. HUGH SCOTT, and the other Members of the Senate, and its Committee on Agriculture and Forestry who have worked diligently and effectively to reconcile widely differing views in preparing this legislation.

Mr. DOLE. Mr. President, one of the problems with food stamp reform generally is that we have been attempting to legislate against a myth—the myth that there are millions of middle and upper income Americans receiving food stamps. If that myth were reality, several hundreds of millions of dollars would be saved by S. 3136, as amended by substitute amendment No. 1571. For the bill as passed by the Senate prohibits participation by anyone with net income above the poverty line.

PROGRAM SAVINGS

Yet the most reliable estimates available from the Congressional Budget Office and the Senate Agriculture Committee staff indicate that the bill, as passed, will save around $250 million—a significant but not dramatic decrease in program expenditures.

I, too, would like to save more money on the food stamp program. But it is clear that any dramatic savings—in the

neighborhood of $1 to $2 billion as some of our colleagues have favored—has nothing to do with program reform. It would cut into the very heart of the program which provides assistance to the truly needy and recently unemployed. Surely, lowering benefits for an impoverished working family is not reform. Yet, that is the precise effect some of the more draconian so-called reform proposals would have had.

BALANCED REFORM

The bill agreed to by the Senate today assures a balanced reform of the program and saves an estimated $241 million in the next fiscal year. It cuts out all middle and upper income households. Absolutely no household or individual that could be said to be in a "comfortable" or "semicomfortable" economic condition will be entitled to food stamp aid under the substitute. Absolutely no middle class college students who are being financed by their parents will be entitled to 1 cent of food stamp assistance. The bill cuts out middle and upper income persons and "plow back" some of the savings attributable to these reforms into assistance for the truly needy

To those who say the Senate bill does not save enough money, I sympathize. As a longtime advocate of Federal spending restraint, I would be greatly pleased if we could have another $100, $300, $500, or even $700 million. But such additional savings would not necessarily be the result of reform, if, instead of cutting out abusers, they were made possible because of arbitrary cutbacks in assistance to truly needy families.

A FINAL WORD ON COST ESTIMATES

The Senator from Kansas would not support the substitute—or any bill—which increases the cost of the program by the astronomical amounts suggested by the Senator from Alabama. In fact, I would not support a bill which increases the cost of the program by $1.

But there are simply no reliable cost estimates which suggest that the substitute would cost money. The most reliable data available—from the Congressional Budget Office and staff of the Senate Agriculture Committee, show a savings of well over $200 million.

I, for one, am growing weary of last minute, ambiguous cost estimates from the Department of Agriculture. There is no reason this new theory of cost estimates from the Department could not have been provided earlier. This is the same thing that happened during the last day of markup—when USDA came in with new, higher estimates.

If, in the coming few weeks, reliable new cost estimates are produced which demonstrate conclusively that the substitute increases costs, I am prepared to vote against the conference report on the food stamp bill.

The Senate has passed a sound reform package which recognizes the needs of poor people while responding to the legitimate public outcry over abuse of the food stamp program. No longer will we see inflammatory newspaper advertisements of small families making $16,000 a year receiving food stamps. The program will be truly a low-income nutritional supplement. Administratively, operation of the program will be greatly enhanced. The Senate has passed a compromise reform bill which should receive strong support in the House of Representatives.

Mr. CHILES. Mr. President, I had originally intended to submit an amendment to the Food Stamp Act which would have raised the standard deduction for the elderly from $125 to $150 a month. While I still feel that the elderly require our special attention, I did not call up this amendment because the compromise substitute contains several features which will accomplish our basic objective of protecting benefits for the elderly. The bill picks up the provision from our amendment which increases the standard deduction each 6 months to reflect inflation. The elderly on fixed incomes suffer most severely from inflation, and this provision protects them.

The substitute reduces the purchase price from 27½ to 25 percent, which represents a real gain in benefits to the elderly. The Senate accepted my amendment which provides a single eligibility interview for food stamps and the supplemental security program. This will make both programs more accessible to elderly persons. The substitute also eliminates the monthly reporting of income, which would have been particularly difficult for our older citizens.

In sum, while my amendment would have provided more benefits for more elderly persons than the committee bill does, the total package of benefits that emerged from the compromise is quite adequate. We can see the mark of this in the fact that the substitute added $390 million to the cost of the bill. While I expect that my quality control amendment will save a substantial portion of these costs, I think that we have a responsibility to hold down the total costs. If we can begin to hold down deficit spending and get a grip on inflation, we can do something important for the elderly. I am satisfied that while we could have done even more for the elderly, the total package of benefits that we ended up with is substantially better than the original bill and will protect the support provided to the elderly by this important program.

Mr. KENNEDY. Mr. President, I am pleased to have this opportunity to support those efforts designed to improve assistance for all of the families that rely on the food stamp program for vital nutritional aid.

It is particularly important for this Senate to take action that will insure continued aid for food stamp recipients because the high cost of food and the inflated pressures of our economy have terribly eroded the purchasing power of all Americans. During these times, poor people are affected more critically than any other segment of our society because the twin effects of inflation and high costs hit them with a double jolt.

But, as more and more Americans are forced to rely on the food stamp program criticism has mounted over the way the program is being abused. Yet, the helpless victims of the economic pressures are being blamed for the difficulties of the stamp program.

Everyone agrees that food stamps should not be issued to those who do not need them. Restrictions that can avoid such abuses deserve to be enacted. But this is no reason for enacting other punitive measures that would deny food stamp benefits to thousands of needy families. While it is clearly necessary for our Government to consider ways to avoid excessive spending, it is tragic that proposals for budget reductions usually begin with those programs that are aimed toward the poor.

The administration asked the Department of Agriculture to cut at least 5.3 million people from the rolls in order to reduce spending by $1.2 billion.

Perhaps that makes good budget sense, but it makes no sense to the families whose diets will suffer simply because they cannot afford today's high food costs.

Congress established eligibility standards for this program on the simple basis that low-income families deserve to receive a supplement for their food purchases. Now that the number of needy people is growing and the number of idle workers begin to seek assistance, the administration tends to blame the victim for the problems.

Instead of taking hungry people off the rolls, let us get rid of the costly procedure that keeps food stamp funds out of the Federal Treasury while banks and others profit on the money spent by poor folks to purchase food stamps.

As long as recipients must pay for stamps, there must be vendors to handle that money. Under current rules, too many vendors use those funds to accrue interest in banks or to work in other ways to the vendor's advantage.

On a typical day, there could be as much as $2 billion, in this $6 billion program, passing through our economy.

Some vendors handle hundreds of thousands of dollars a year. By holding on to that money for several months, the interest can really mount up. Government officials estimate the Federal Treasury lost at least $11 million last year through that tactic.

By insisting that food stamp recipients are required to purchase stamps, opportunities for that brand of abuse will always be present.

Elimination of the purchase requirement would end the invitation for swindlers to misuse the funds that flow through this vital program.

If this administration and this Congress are seriously concerned about abuses in the program, then we should end the requirement for purchasing stamps and simply issue the bonus value of food stamp allotments directly to needy people.

And if that increases the number of people participating in this program, it is clearly worthwhile. But if we leave the purchase requirement in place we shall continue to be faced with enormous op-

portunities for unwarranted abuses and exorbitant cost overruns.

Today, this Senate is faced with a proposal that will indeed reform the food stamp program, but it accomplishes that goal by changing the rules on income limits. Families with income just beyond the poverty line may find their food allotment drastically curtailed because their marginal income scarcely exceeds newly designed limits that purport to guarantee that affluent families will not be eligible for stamps.

Hopefully, these new limits will not slash too deeply into that population of working Americans who have come to depend on the stamp program to supplement their purchasing power in our Nation's supermarkets.

In Massachusetts, the food stamp program has been extended throughout the Commonwealth just within the past 18 months.

Both administrators and recipients want food stamps to serve the people with the greatest need. But Federal officials and pending legislation seem designed primarily to undermine the delivery of good nutritional assistance. Sumner Hoisington, deputy commissioner of the Massachusetts Department of Public Welfare, believes that proposed new food stamp regulations, "* * * could significantly alter the State's ability to effectively operate and monitor the program as well as leave a severe economic impact on many participating households and potential eligibles." Jobless workers who have been idled by plant closings and the deactivation of Federal Government facilities find that food stamps can be an important element in their struggle to feed their families.

It is my hope that the action of this Senate will insure continued protection for the thousands of deserving families that want to work but find that the lines outside employment agencies are even longer than the lines outside the food stamp office.

The measure before us requires recipients to sign up for work as a condition for participating in the stamp program.

But a worker just laid off from his job does not need to be forced to look for work in order to get help to feed his family. Instead of a work requirement in the food stamp bill, participants simply want to know where the job is. Find them a job and they will gladly get off the food stamp rolls.

Nearly 200,000 households in Massachusetts receive food stamp assistance. Those who work, want to. And those who are unable to work deserve the best available support for good nutritional health this Nation can offer.

Most of the elements in the pending legislation are seen by many of us on the Senate Nutrition Committee as direct assaults on the basic foundation of the food stamp program.

I am fully convinced that this program must help needy people obtain the right amounts of the foods they must have for good health. At the same time the program should be administered as efficiently as possible. But, too many officials are insisting on detailed requirements that will force this program to stumble instead of supplement food requirements for the poor.

Many organizations from around the country have called for a defeat of those proposals that are too oppressive. They include—the National Food Stamp Information Committee, the Chamber of Commerce of the United States of America, the Congressional Black Caucus, the National Council of Organizations for Childen and Youth, and the United Mine Workers.

These groups know that such provisions as the monthly reporting requirements can wreak havoc among State welfare agencies if thousands of recipients must each month update information on their personal and family characteristics. Reporting changes should be perfectly sufficient for the maintenance of accurate records. Monthly reporting, however, can only lead to errors, confusion, and disillusion among those who require help.

The measure before this Senate may begin to eliminate the budget excesses that the administration covets—but I hope it will not also eliminate the deserving provisions of decent food assistance for needy families.

Mr. BAKER. Mr. President, it is widely accepted that our current food stamp program is in need of revision, not only to alleviate the fraud and abuse that currently characterize the program, but to insure that the truly needy are nutritionally protected.

That objective must not be subverted by compromises which would render the Food Stamp Reform Act nothing more than a costly experiment. After extensive research into procedures that would correct various costly errors and prevent the nonpoor from participation, it is incongruous to enact a reform measure that ultimately spends more money than the current program. The food stamp program is in desperate need of fine tuning so that it meets its nutritional objectives without surrendering its integrity.

Certainly, the viability of our budgetary system should not be threatened. It is clear that many of the problems of the food stamp program can be eliminated through effective and sound administration which would be cost saving in comparison to the current level of expenditures for the program. It is my understanding that the goal of food stamp reform has been to eliminate unnecessary and fraudulent practices which would enable the food stamp program to become cost effective. Enacting a measure that would cost more than the present program would be at cross-purposes with the objectives of meaningful food stamp reform, and would significantly undermine the intent of the revisions. Serious consideration and evaluation of the consequences to our budgetary process of a spending measure, rather than a saving measure, is warranted. The soundness of the food stamp program rests upon this precedent.

THE PROBLEM

Mr. HANSEN. Mr. President, the American people are demanding and clearly deserve food stamp reform. With the Federal Government subsidizing the grocery bill for nearly 1 out of 13 citizens, it is no wonder Americans are up in arms about this program.

And that is only the half of it. It has been estimated that 1 out of every 4 citizens is eligible for food stamps under the present program. It is truly hard to believe, and impossible to explain, why 25 percent of our population can qualify for a Federal food subsidy.

If Congress continues to follow this kind of expensive welfare policy, it would not be long until half of the American people will be supporting the other half.

The food stamp program was meant to be a nutritional program to insure an adequate diet for those individuals who are unable, through no fault of their own, to provide for themselves. The American people are not insensitive to the needs of the elderly, the disabled, and the poor. But they resent it very much when benefits intended for these deserving segments of our society are extended to people fully capable of working and taking care of themselves. And even those who most ardently support the food stamp program must find it hard to believe that 1 in 4 Americans is in need of a Federal subsidy in order to have a nutritionally adequate diet.

A look at the actual rate of food stamp participation under the current program and as individual cases show that benefits are not generally extended on the basis of nutritional need. Instead, many families are able to get stamps not because they are nutritionally needy, but because they mismanage their income. The higher their house and car payments are, and the more they spend for certain other nonfood items, the easier it is for them to qualify for food stamps.

The qualification requirements of the current program, which are only remotely related to nutritional need, are part of the reason for the explosive rate at which the food stamp program has grown. In 1965, the average number of Americans receiving food stamps was 1 in 439. Two years later, it was 1 in 157.

By 1970, 1 out of every 47 Americans received food stamps, and by 1973, 1 in 17. Presently, 1 out of every 13 Americans receives food stamps.

The cost to the taxpayers of the food stamp program also demonstrates the explosive growth rate. The cost has increased by 14,203 percent in the past 10 years. In 1965, the food stamp program cost $36.4 million. By 1975, the cost had risen to $5.2 billion—not million, but billion. The estimated current program cost for fiscal year 1977 is $6.3 billion. There is no question that this program is out of control.

Mr. President, the explosive increase in participation and cost of the food stamp program is the direct result of the existing overgenerous qualification formula. The program formula has entitled many nonneedy individuals to receive food stamps. It has also created an administrative nightmare and contributed in significant part to rampant program error and fraud which annually costs the American taxpayer millions of dollars.

Presently, the amount of stamps a person is entitled to receive and the

amount of money that person must pay toward the value of the stamps is based on that person's net income. There is no maximum gross income limitation for food stamp participation. Moreover, many of the deductions which are permitted in determining net income tend to favor individuals who do not need and should not receive food stamps. Because they are not counted as assets that could be used to buy food, such possessions as mink coats, jewelry, expensive furniture, television sets, stereo equipment, cars, and other personal effects are not considered when assessing a person's ability to buy food. Further, an individual may deduct large expenses related to the use of valuable assets and to extravagant living, so that he pays substantially less for the stamps than persons who live more frugally.

High payments on an expensive home can actually help one to qualify, since the higher the payments are, the more the applicant can reduce his net income for food stamp purposes. Sending a child to a private school can help assure eligibility, since tuition can be deducted. Other expenses which are deducted from gross income when determining food stamp eligibility include union dues, Federal, State, and local taxes, child care expenses, rent, utilities, medical costs, and others.

We all know that many college students who are voluntarily unemployed can qualify for food stamps, even though their parents may earn as much as $100,000 per year. People who voluntarily quit their jobs or engage in strikes are eligible. Unemployed recipients are required to register for work, but they are not required actively to seek employment.

Public assistance recipients automatically qualify for food stamps, despite the fact that in some instances, after totaling their entire amount of public assistance, they often have an income which equals or exceeds that of nonpublic assistance individuals who are ineligible because their income is too high.

In fact, a February 1975, GAO report found that public assistance households pay a smaller proportion of their income for food stamps than identically sized, nonpublic assistance households with smaller incomes. The cost to the American taxpayer of this inequity is quite large, when one considers that public assistance households constitute approximately half of the total number of people on food stamps.

These examples show sow nonneedy people can qualify for food stamps because of the overgenerous formula for distributing benefits. But, outrageously, this same extravagant program fails to provide a decent level of assistance to the very people who need it most—the very poor and the elderly. The formula, with its hodgepodge of deductions, exemptions, and requirements, is weighted in favor of those with the least need and works against those most in need of help.

And, the current formula has created an administrative nightmare and has resulted in a rampant program error rate and outright fraud.

Some time ago, I wrote to every food stamp administrator in Wyoming seeking their comments on the food stamp program. Without exception, every reply indicated that the local administration of the present program is a nightmare. The inability properly to administer the program has caused much wasted time and expense and has resulted in a phenomenal rate of error. The Department of Agriculture's most recent study of food stamp error in nonpublic assistance food stamp households found errors in 56.1 percent of the cases.

A February 1975, GAO study indicated that nationally, 18 percent, or almost 1 in 5 food stamp recipients, was ineligible and that of the $120 million monthly Federal food stamp subsidy, about $23 million was received by households considered ineligible. The Washington Star, using the error rate established by the recent Department of Agriculture study, found that during the last fiscal year, $797 million was paid to ineligible recipients. This means that approximately $1 in $6 was misspent because of eligibility errors.

The fact that this unbelievable rate of error is mainly the result of the current complex and unfair formula is supported by the Agriculture Department study which found that of the 56-percent total error rate, all but 7 percent of the errors were a consequence of the income deductions allowed under the present formula. This statistical conclusion is further supported by many Wyoming food stamp administrators with whom I have corresponded.

Mr. President, an additional problem with the current food stamp program is that it is so loosely structured that it encourages widespread fraud. The rate of fraud not only undermines the integrity of the program, but adds further to the program's cost.

Agriculture Department officials have repeatedly stated that the food stamp program is remarkably free from fraud, that the percentage of fraud is twenty-four thousandths of 1 percent.

The problem with these Department figures is that while they may reflect discovered fraud, they do not represent actual fraud. In the food stamp program, there is large variance between actual fraud and discovered fraud. The Agriculture Department figures represent only a fraction of the cheaters now illegally taking advantage of the food stamp program.

No one really knows how much cheating is going on. Under current law, individual States must prosecute violators of the food stamp law, and food stamp officials admit that the States do a poor job. The poor record of the States in this area is a result of the fact that the States are not handing out their own money and there is little incentive to exercise strict enforcement. Food stamp money lost through fraud is Federal, not State, money. Investigations and prosecutions take time and cost money. States would quite naturally rather direct their resources to areas where there is a significant State, rather than Federal interest. However, when States do get involved, widespread fraud is discovered. A recent Washington Star article revealed a case in point.

A Little Rock, Ark., prosecutor reviewed 500 food stamp cases which were considered only slightly suspicious. What officials discovered on close examination was shocking. There was clear cheating almost 4 out of 5 cases. Prosecutors found people who gave phony addresses, phony birth certificates, and ficticious names. One woman had 20 aliases and was collecting stamps under 20 different names.

People who declared they had no income would be working. People would lie about their number of dependents. One woman operated a family scheme. She got her uncles, aunts, and cousins to fill out food stamp applications and then collected all the stamps herself. She then sold the stamps for 90 cents on the dollar.

After investigating the initial 500 cases, the prosecutors gave up because the cheating was so widespread. This, unfortunately, is often the typical state of affairs. Either local officials do not investigate food stamp fraud, or, if they do investigate, they often find that the fraud is so massive they give up because of the time and expense involved.

THE COMMITTEE'S REFORM BILL

Mr. President, the legislation that would have done the best job of overhauling the food stamp program was S. 1993, Senator BUCKLEY'S bill. I cosponsored it because I believed it would have removed from the food stamp rolls those nonneedy persons who ought to be taking care of themselves. At the same time, the bill would have increased benefits to the elderly and poor, who deserve our help and who logically should be the beneficiaries of programs like this one.

The reform bill reported out by the Senate Agriculture Committee did not include many of the provisions of S. 1993, but it did, nevertheless, represent an important step toward bringing equity to the food stamp program.

The committee bill imposed a gross income ceiling, so that persons with income above the official poverty line would no longer be eligible for food stamps.

The bill replaced the present hodgepodge of deductions with a standard deduction of $100 per month for those under 60 years of age, and $125 for the elderly, plus Federal, State, and local income taxes. Recipients would, under the committee bill, have to report their income on a monthly basis in order to minimize the potential for error. Public welfare recipients would not be automatically entitled to food stamps, as they are now, but would have to meet the same tests as anyone else seeking food stamp benefits. Persons who voluntarily terminated employment would not be eligible for stamps under the committee bill, and unemployed recipients would be required actively to seek employment.

The committee bill increased the amount of stamps beneficiaries would receive, to insure provision of a nutritionally adequate diet. This step, when combined with the improved deduction process, would have guaranteed higher benefits for those most deserving of assistance—the poor and the aged.

The committee estimated its bill would save about $600 million annually in Federal food stamp program costs. However,

I am told that others estimate the saving at considerably less than that—more like $200 million.

While it would not have saved nearly as much money as the Buckley bill, the committee bill represented, nevertheless, an important step forward in reforming the food stamp program. I regret very much the Senate's refusal to approve the committee's bill and to act, instead, to expand a program that is already too big and too expensive.

THE DOLE-M'GOVERN SUBSTITUTE

The Dole-McGovern substitute moves in the opposite direction from the committee bill, and from the direction most Americans want to go. Instead of restricting eligibility to the needy and reducing the scope and cost of the program, the substitute liberalizes the program and increases its cost by an amount that is not specifically outlined, but which is sufficient to require waiving of the congressional budget ceiling which we set to control expenditures.

The substitute is a fraud because it is represented as a "reform" of the food stamp program when, in fact, it expands the scope and cost of the program and circumvents the budget process Congress imposed as a means of controlling expenditures.

In the past several years, the Congress has spent countless hours developing a process by which spending could be coordinated and controlled. For too long, we had approved expensive program on top of expensive program, without adding up the total to see what we had done to the Nation's budget.

It was similar to writing dozens of checks without looking to see if there was enough in the bank to cover them. To accomplish budget reform, Budget Committees were established in both Houses to recommend spending levels and to watch over the national checkbook so that we could stay within a designated budget.

It is truly ironic, Mr. President, that we now find ourselves subverting our own budget reform process in the name of food stamp reform.

The likelihood that the substitute proposal will result in any reduction in Federal spending is virtually nonexistent. The proponents admit that it would not save as much as the committee bill. Moreover, it has been estimated that the substitute will cost as much as $1.4 billion more than the existing program, which is estimated to cost $6.3 billion in the next fiscal year.

What we do know is that the cost of the substitute will exceed the congressional budget established for the food stamp program. What point is there in having a budget if we ignore it?

Not only does the substitute cost more than our budget allows, it makes a mockery of efforts to revise the administration of the food stamp program. It further liberalizes deductions which are already too liberal. Instead of imposing much-needed restrictions on eligibility, it opens more loopholes through which nonneedy persons may receive food stamps. Instead of tightening administrative controls so that fraud and error could be reduced, the substitute imposes a system by which benefits would be approved, and then hopefully, recovered later if an after-the-fact eligibility review showed they were not supposed to be approved.

The substitute prohibits pilot projects which would involve reduced income and eligibility criteria, which is the same thing, "It is okay to have a pilot project if it means spending more Federal money, but it is not okay if the project is meant to save money."

The Senate Agriculture Committee spent weeks, if not months, studying ways of achieving food stamp reform. And believe me, Mr. President, reform—not liberalization—is what the American people want. The provisions in the substitute were not subjected to the hearing process. No one knows what they will cost. They were revealed to Members of the Senate only a day or so ago, so that there was no way they could be studied in detail.

The American people will support a food stamp program that assists those who deserve our assistance, such as the very poor, the disabled, and the elderly—those who, through no fault of their own, are unable to provide for themselves a nutritionally adequate diet. They will not support the kind of program we have now, or the kind of program we will have if this substitute becomes law. I do not blame them.

The bill reported out by the Senate Agriculture Committee would have permitted significant reform of the food stamp program, and I truly regret we did not accept that bill. The Dole-McGovern substitute cannot be called a "reform" measure. I hope it will be defeated.

Mr. MORGAN. Mr. President, I would like to say that no bill or no matter that has come to my attention has caused more concern throughout the State of North Carolina than the question of abuse of the food stamp program. I commend the distinguished Senator from Georgia, the chairman of the Committee on Agriculture, and his staff for their efforts in trying to revise the program in such a way as to make it more acceptable to the people of this country.

In the final analysis I voted against the bill as it was finally voted on because of the substitute bill that was adopted.

However, I would point out that I do think that bill makes some rather substantial improvements in the food stamp program that may serve to allay some of the fears and some of the criticisms of it.

For instance, it provides for standard deductions from income rather than the long list of deductions that prevailed before, which included everything from alimony payments to nonsupport payments to utility bills, in some cases rent payments, and so forth. I think the standard deduction provision of the bill which was adopted is very good and will help.

I especially like the fact that the bill, as adopted, retains the purchase requirement for food stamps. I think especially the tightening up of eligibility for college students who were receiving food stamps will help eliminate a great deal of the criticism. Establishing more realistic income levels down to the poverty level will help. The work registration and job search requirements are also good features of the bill, and the more realistic assets limit.

Mr. President, the question might be asked if I think all of those provisions in the bill as finally adopted were good, why did I vote against it?

I voted against it for a number of reasons, Mr. President. One is because of the uncertainty of the additional cost.

The very distinguished chairman of the Committee on Agriculture reported that according to the Congressional Budget Office, it would reduce the cost from the present food stamp program by about $250 million or so. But, on the other hand, we had information which I was led to believe was reliable, or based on reliable assumptions from the U.S. Department of Agriculture, that estimated that the compromise bill would cost $378 million over and above the present food stamp program. That is more than a half-billion dollars more than the food stamp program and nearly $1 billion more than the bill that was reported out by the Committee on Agriculture and Forestry.

I do not believe, Mr. President, that the time is ripe for us to continue increasing Federal spending.

Foremost in my reasons for voting against the bill is the fact that when I campaigned up and down the State of North Carolina during the year 1974, I said that I stood for fiscal responsibility in Government. I pointed out that through the many years in State government I had consistently voted for better schools, better hospitals, better care for the needy and aged, but I had always been willing to vote for the taxes that were necessary to pay for those programs. Last year, during 1975, the year that I served in the Senate, as I traveled the highways and byways of North Carolina, I held out a ray of hope to the people in my State that the Congress was finally coming around to the position of acting in a fiscally responsible manner. I pointed out the adoption of the Budget Reform Act of 1974. I said this is one giant step forward that we made in the Congress toward becoming fiscally responsible.

Lo and behold, today I find we have already waived some of the provisions of that bill and almost thrown it to the four winds.

Because of that I cast my vote against the bill and I wish the RECORD to so reflect.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is, shall the bill as amended pass?

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 (after having voted in the negative). On this vote I have a pair with the distinguished senior Senator from Missouri (Mr. SYMING-

TON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

(Mr. STONE assumed the chair.)

Mr. MORGAN (after having voted in the negative). In this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "Yea." If I were at liberty to vote, I would vote "Nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Mexico (Mr. MONTOYA) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

On this vote, the Senator from Pennsylvania (Mr. HUGH SCOTT) is paired with the Senator from New York (Mr. BUCKLEY). If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 52, nays 22, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—52

Abourezk	Hatfield	Packwood
Bayh	Hathaway	Pearson
Bentsen	Hollings	Pell
Biden	Huddleston	Percy
Brooke	Javits	Proxmire
Bumpers	Johnston	Randolph
Burdick	Kennedy	Ribicoff
Cannon	Leahy	Schweiker
Case	Long	Sparkman
Chiles	Magnuson	Stafford
Clark	Mansfield	Stevenson
Cranston	Mathias	Stone
Dole	McGee	Taft
Eagleton	McGovern	Talmadge
Ford	Moss	Weicker
Glenn	Muskie	Williams
Hart, Philip A.	Nelson	
Haskell	Nunn	

NAYS—22

Allen	Fannin	McClure
Baker	Fong	Roth
Bartlett	Garn	Scott,
Beall	Goldwater	William L.
Byrd,	Griffin	Stennis
Harry F., Jr.	Hansen	Thurmond
Domenici	Helms	Tower
Eastland	Laxalt	Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Robert C. Byrd, against.
Morgan, against.

NOT VOTING—24

Bellmon	Hart, Gary	Metcalf
Brock	Hartke	Mondale
Buckley	Hruska	Montoya
Church	Humphrey	Pastore
Culver	Inouye	Scott, Hugh
Curtis	Jackson	Stevens
Durkin	McClellan	Symington
Gravel	McIntyre	Tunney

So the bill (S. 3136), as amended, was passed, as follows:

S. 3136

An act to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "National Food Stamp Reform Act of 1976".

DEFINITIONS

SEC. 2. Section 3 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (e) is amended to read as follows:

"(e) The term 'household' means a group of individuals who are sharing common living quarters, but who are not residents of an institution or boardinghouse, and who have access to cooking facilities and for whom food is customarily purchased in common. Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) or section 236 of the National Housing Act (12 U.S.C. 1715z–1), shall not be considered residents of an institution or boardinghouse. The term 'household' also means (1) a single individual living alone who has access to cooking facilities and who purchases food for home consumption; (2) an elderly person who meets the requirements of section 10 (h) of this Act; or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program. Notwithstanding any other provision of this subsection, households in which a member is eligible to participate in the nutrition program for the elderly under title VII of the Older Americans Act of 1965, or is authorized by section 10(h) of this Act to use coupons for meals on wheels, shall not be required to have cooking facilities.".

(b) Subsection (f) is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ", or any private nonprofit cooperative food purchasing venture in which the members pay for food purchased prior to receipt of such food. Such private nonprofit cooperative is authorized to redeem members' food coupons prior to receipt by the members of the food so purchased. Organizations and institutions specified in section 10(i) of this Act are not authorized to redeem coupons through banks.".

(c) Subsection (l) is amended to read as follows:

"(l) The term 'elderly person' means a person sixty years of age or over who is not a resident of an institution or boardinghouse.".

(d) Section 3 is amended by adding at the end thereof new subsections (o), (p), and (q), as follows:

"(o) The term 'nutritionally adequate diet' means a diet having the value of the food required to feed a family of four persons consisting of a man and a woman twenty through fifty-four; a child six through eight; and a child nine through eleven years of age, determined in accordance with the thrifty food plan developed in 1975 by the Secretary. The cost of such diet shall be the basis for uniform coupon allotments for all households regardless of composition, except for household size adjustments and adjustments to reflect economies of scale set forth in the thrifty food plan.

"(p) The term 'coupon vendor' means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibility in connection with, the issuance of coupons to households.

"(q) The term 'adjusted semiannually' means adjusted effective every January 1 and July 1 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics in the Department of Labor for the preceding six months ending September 30 and March 31.".

DISTRIBUTION OF FEDERALLY DONATED FOODS

SEC. 3. Section 4(b) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(b) In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made for such period of time as the Secretary determines necessary to effect an orderly transition on an Indian reservation on which the distribution of federally donated foods to households is being replaced by a food stamp program: *Provided*, That the Secretary shall not approve any plan submitted under this Act which permits any household to participate simultaneously in both the food stamp program and the distribution of federally donated foods: *Provided further*, That households may continue to receive such donated foods under separately authorized programs which permit commodity distribution on a temporary basis to meet disaster relief needs.".

ELIGIBLE HOUSEHOLDS

SEC. 4. Section 5 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (b) is amended to read as follows:

"(b)(1) The Secretary shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary.

"(2)(A) The income standards of eligibility in every State (except Alaska and Hawaii) shall be the income poverty guidelines for the nonfarm United States prescribed by the Office of Management and Budget, as adjusted in accordance with clause (B) of this paragraph. The income standards of eligibility for Alaska and Hawaii shall be the nonfarm income poverty guidelines established pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d), as adjusted in accordance with clause (B) of this paragraph.

"(B) The income poverty guidelines shall be adjusted semiannually (as that term is defined in section 3(q) of this Act) pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d), to the nearest $1 increment. However, the first adjustment under this paragraph shall

take effect on July 1, 1977, and shall be made by multiplying the income poverty guidelines published as of May 1, 1976, by the changes between the average 1975 Consumer Price Index and the Consumer Price Index for March 1977.

"(3) The Secretary shall utilize the preceding thirty-day period in determining income for purposes of eligibility and benefit levels of households: *Provided*, That a longer period may be used as determined by the Secretary for households in which all members receive income from sources such as self-employment, agriculture, contract work, and educational scholarships.

"(4) Notwithstanding the provisions of paragraph (3) of this subsection, a household that has suffered a substantial loss of earned income may immediately make application for participation in the food stamp program. Such application shall be processed in the same manner as that for other applicants except for the determination of the applicant household's income. At the time of such application, members of the household (who are not otherwise exempt) must register for employment under subsection (c) of this section and shall receive the same services under such subsection as any other applicant. At the end of the thirty-day period after the loss of income, the applicant household may present the verification of its income to the certifying authority and such authority shall issue the applicant household its authorization to purchase card immediately thereafter: *Provided*, That in the case of State agencies that use mechanized issuance systems, such agencies must have the authorization-to-purchase cards available upon presentation of the verification of income and issued to the applicant household if such household is eligible for benefits under this Act, and such State agency must recoup any loss suffered because such initial authorization-to-purchase card was in error.

"(5) The Secretary shall also prescribe additional standards of eligibility with respect to the amounts of liquid and nonliquid assets a household may own. However, the Secretary may not propose any amendments to the assets regulations in effect on March 31, 1976, until sixty days after the submission to Congress of the assets study report under section 20 of this Act.

"(6) (A) Household income for purposes of the food stamp program shall be the gross income of the household, as defined in paragraph (7) of this subsection, less (i) a standard deduction of $100 a month applicable to all households, except that the standard deduction for Puerto Rico, the Virgin Islands, and Guam shall be $60 a month; (ii) an additional deduction of $50 a month for any household in which there is at least one member who is age sixty or older; (iii) an additional deduction of $25 a month for any household in which there is at least one member who has at least $150 a month in earned income; and (iv) Federal, State, and local income taxes and social security taxes paid by employees under the Federal Insurance Contributions Act.

"(B) Effective July 1, 1977, the standard deduction shall be adjusted semiannually (as that term is defined in section 3(q) of this Act). Such adjustment shall be rounded to the nearest $5 increment.

"(7) Notwithstanding any other provision of law, gross income for purposes of the food stamp program shall include, but not be limited to, all money payments (including payments made pursuant to the Domestic Volunteer Services Act of 1973) and payments in kind, excluding—

"(A) payments for medical costs made on behalf of the household;

"(B) income received as compensation for services performed as an employee or income from self-employment by a child residing with the household who is a student and who has not attained his eighteenth birthday;

"(C) payments received under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(D) infrequent or irregular income of a household which does not exceed $30 during any three-month period;

"(E) all loans, scholarships, fellowships, grants, and veteran's educational benefits, except deferred educational loans, scholarships, fellowships, grants, and veteran's educational benefits to the extent they are not used for tuition and mandatory fees at an institution of higher education or school for the handicapped

"(F) housing vendor payments made directly to landlords under programs administered by the Department of Housing and Urban Development;

"(G) payments received under the special supplemental food program for women, infants, and children authorized by section 17 of the Child Nutrition Act;

"(H) payments in kind derived from government benefit programs including, but not limited to, school lunch, medicare, and elderly feeding programs, and any payments in kind which cannot reasonably and properly be computed;

"(I) the cost of producing self-employed income;

"(J) Federal, State, and local income tax refunds, Federal income tax credits, and retroactive payments under the Social Security Act: *Provided*, That the full amount of such refunds, credits, or payments shall be included in household resources; and

"(K) income specifically excluded by other Federal laws.

"(8) The Secretary may also establish temporary emergency standards of eligibility for the duration of the emergency, without regard to income and other financial resources, for households that are victims of a disaster which disrupts commercial channels of food distribution when he determines that (A) such households are in need of temporary food assistance, and (B) commercial channels of food distribution have again become available to meet the temporary food needs of such households.".

(b) Subsection (c) is amended to read as follows:

"(c) (1) Notwithstanding any other provision of law, the Secretary shall include in the uniform national standards of eligibility to be prescribed under subsection (b) of this section a provision that each State agency shall provide that a household shall not be eligible for assistance under this Act if it includes an able-bodied adult person between the ages of eighteen and sixty (except a parent or other member of the household who has the responsibility of care of a dependent child under the age of twelve or of an incapacitated person; a parent or other caretaker of a child or of an incapacitated person in households where there is another able-bodied parent who is subject to the requirements of this subsection; bona fide students in any accredited school or training program, subject to the provisions of paragraph (6) of this subsection; or persons employed and working at least thirty hours per week) who without good cause either—

"(A) fails to register for employment at a State employment service office or, when impractical, at such other appropriate State or Federal office designated by the Secretary of Labor;

"(B) fails to inquire regularly about employment with prospective employers or otherwise fails to engage regularly in activities directly related to securing employment;

"(C) refuses to accept employment or public work at not less than the highest of (i) the applicable State minimum wage; (ii) the applicable Federal minimum wage; (iii) the applicable rates established by a valid regulation of the Federal Government authorized by existing law to establish such regulations; or (iv) if there is no applicable wage as described in subdivision (i), (ii), or (iii) of clause (C) of this paragraph, a wage which is not substantially less favorable than the wage normally paid for similar work in that labor market, but in no event less than three-fourths of the Federal minimum wage rates specified in section 6(a)(1) of the Fair Labor Standards Act; or

"(D) voluntarily quits any job unless the household of which such person is a member was certified for benefits under this Act immediately prior to such unemployment.

"(2) In carrying out its responsibilities under this subsection, the State employment service shall comply with regulations which the Secretary of Labor shall issue in consultation with the Secretary. The Secretary of Labor, in issuing the regulations, shall conform them as closely as possible to the work incentive program requirements set forth under title IV of the Social Security Act, taking into account the unique requirements under the work incentive program, including the provision for social services. To the maximum extent possible, taking into account the diversity of the food stamp work registrant population and varying registrant needs, the Secretary of Labor shall provide manpower training, employment services and opportunities, and supportive services, including child care services of the type available under the work incentive program.

"(3) In the event of a failure of the State employment service to comply with the regulations issued under paragraph (2) of this subsection, the Secretary of Labor is authorized to assume the responsibilities of such State employment service. From the sums appropriated to carry out this Act, there are authorized to be allocated for transfer to the Secretary of Labor (A) for fiscal year 1977 not more than $100,000,000 and (B) for each succeeding fiscal year such sum as may be jointly determined by the Secretary and the Secretary of Labor to be necessary for the Secretary of Labor to carry out his responsibilities under this section. The Secretary shall transfer such sums as are allocated for transfer to the Secretary of Labor. The Secretary of Labor is authorized to make grants or enter into agreements with public or private agencies or organizations in order to carry out his responsibilities under this Act.

"(4) Refusal to work at a plant or site subject to a strike or lockout for the duration of such strike or lockout shall not be deemed to be a refusal to accept employment.

"(5) For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program.

"(6) The exception provided in paragraph (1) with respect to bona fide students shall not apply in the case of any student during any period such student is not attending the school or training program in which he is enrolled because of a break in the school year (or between school years) or training programs if the duration of such break is thirty days or more.".

(c) Section 5 is amended by adding at the end thereof new subsections (e) through (j) as follows:

"(e) No individual shall be eligible to participate in the food stamp program unless he is a resident of the United States, and is either (1) a citizen or (2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) of section 212(d)(5) of the Immigration and Nationality Act). If, in the application process it becomes known, or the State agency has reason to believe, that an alien has entered or remained in the United States illegally, the State agen-

cy shall submit to the Department of Justice information indicating that the applicant may be an illegal alien.

"(f) No household shall be eligible to participate, or to continue to participate, in the food stamp program, if it refuses to submit to the State agency necessary information for a determination as to the household's eligibility to participate in the program. No household shall be eligible to participate in the food stamp program for a period of up to one year after it has been found either by a court of appropriate jurisdiction to have been guilty of a crime involving fraud in connection with its participation in the food stamp program, or by a State agency, after hearing and notice, to have fraudulently obtained coupons. The Secretary shall require every participating household that experiences changes in its eligibility or benefit status to report to the State agency, within ten days of the date upon which such changes become known to the household, any change in monthly income in excess of $25 and any other change in the household's eligibility or benefit status. If a household fails to fulfill this reporting requirement, its coupon allotment for the next certification period shall be reduced to reflect the impact of the changes at the time when they should have been reported.

"(g) No individual shall be considered a household member for food stamp program purposes if such individual (1) has reached his eighteenth birthday, (2) is enrolled in an institution of higher education, and (3) is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household.

"(h) No household that knowingly transfers liquid or nonliquid assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for such period of time as may be determined in accordance with regulations issued pursuant to this Act, but in no event shall such period of time be less than thirty days from the date of discovery of the transfer.

"(i) No individual who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, as amended, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

"(j)(1) Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education, and Welfare shall develop a system by which, to the greatest extent feasible, a single interview shall be conducted to determine eligibility for the food stamp program and for the supplemental security income program under title XVI of the Social Security Act or the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act. To the greatest extent feasible, eligibility determination forms for food stamp applicants who are recipients of, or applicants for, benefits under those programs shall not include information collected for those programs.

"(2) The Secretary, in consultation and cooperation with the Secretary of Health, Education, and Welfare shall formulate and submit to the Congress, within ninety days after the date of enactment of this paragraph, a proposal for a nutritional status monitoring system. The Secretary shall also submit recommendations for such legislation as may be necessary to carry out such proposal.".

ISSUANCE AND USE OF COUPONS

SEC. 5. Section 6 of the Food Stamp Act of 1964, as amended, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and inserting new subsections (b) and (c) as follows:

"(b)(1) The Secretary shall by regulation develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon vendors for the purpose of insuring that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such vendors). Any such regulations shall contain procedures to insure that coupon inventories in the hands of coupon vendors are not in excess of the reasonable needs of such vendors taking into consideration the case and feasibility of resupplying such coupon inventories. The Secretary may, at his discretion, require periodic reports from such coupon vendors respecting the level of such inventories.

"(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide a report required under paragraph (1) of this subsection shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(3) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required under paragraph (1) of this subsection shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(c)(1) The Secretary shall by regulation prescribe appropriate procedures for the delivery of coupons to coupon vendors and for the custody, care, control, and storage of coupons in the hands of coupon vendors in order to secure such coupons against theft, embezzlement, misuse, loss, or destruction.

"(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating any regulations issued under paragraph (1) of this subsection shall be fined not more than $3,000, or imprisoned not more than one year, or both.".

VALUE OF THE COUPON ALLOTMENT AND CHARGES TO BE MADE

SEC. 6. Section 7 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as will provide such households a coupon allotment sufficient to allow them to purchase a nutritionally adequate diet as defined in section 3(o) of this Act: *Provided*, That in no event shall the face value of the coupon allotment used in Puerto Rico, the Virgin Islands, and Guam exceed those in the fifty States. The face value of the coupon allotment shall be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor. Such changes shall be made in January and July of each year based upon the cost of food in the preceding August and February, respectively. In no event shall such adjustments be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated in accordance with this subsection, is a minimum of $2.".

(b) Subsection (b) is amended to read as follows:

"(b) Households shall be charged for the coupon allotment issued to them, and the amount of such charge shall be 25 per centum of the household's income rounded to the nearest whole dollar, as determined in accordance with section 5(b) of this Act: *Provided*, That for single-person households and two-person households the minimum benefit shall be $10 per month. The Secretary shall provide a reasonable opportunity for any eligible household to elect to be issued a coupon allotment having a face value which is less than the face value of the coupon allotment authorized to be issued to the household under subsection (a) of this section. The charge to be paid by an eligible household electing to exercise the option set forth in this subsection shall be an amount which bears the same ratio to the amount which would have been charged under subsection (b) of this section as the face value of the coupon allotment actually issued to the household bears to the face value of the coupon allotment that would have been issued to the household under subsection (a) of this section.".

(c) Subsection (d) is amended by inserting "(1)" immediately after "(d)" and adding at the end thereof the following new paragraphs:

"(2)(A) The Secretary shall by regulation prescribe the manner in which funds derived from the distribution of coupons (charges made for coupon allotments) shall be deposited by coupon vendors. The regulations shall contain provisions requiring that coupon vendors promptly deposit such funds in the manner prescribed by the Secretary: *Provided*, That such regulations shall, at a minimum, require that such deposits be made weekly: *Provided further*, That such regulations shall, at a minimum, require that upon the accumulation of a balance on hand of $1,000 or more, such deposits be made within two banking days following the accumulation of such amount.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating the regulations issued under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(3)(A) Coupon vendors receiving funds derived from the distribution of coupons (charges made for coupon allotments) shall be deemed to be receiving such funds as fiduciaries of the Federal Government, and such coupon vendors shall immediately set aside all such funds as funds of the Federal Government. Funds derived from the distribution of coupons (charges made for coupon allotments) shall not be used, prior to the deposit of such funds in the manner prescribed by the Secretary, for the benefit of any person, partnership, corporation, association, or entity other than the Federal Government.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating subparagraph (A) of this paragraph shall be fined not more than $10,000, or a sum equal to the amount of funds involved in the violation, whichever is the greater, or imprisoned not more than ten years, or both: *Provided*, That if the amount of such funds is less than $1,000, such vendor shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(4)(A) The Secretary shall by regulation require that upon the deposit, in the manner prescribed by the Secretary, of funds derived from the distribution of coupons (charges made for coupon allotments), coupon vendors shall immediately send a written notice to the State agency, accompanied by an appropriate voucher, confirming such deposit. In addition to such other information deemed by the Secretary to be appropriate, such regulations shall require that the notice contain—

"(i) the name and address of the coupon vendor;

"(ii) the total receipts of such coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the deposit period;

"(iii) the amount of the deposit;

"(iv) the name and address of the depository; and

"(v) an oath, or affirmation signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in such notice is true and correct to the best of such person's knowledge and belief.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide the notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"'(5)(A) The Secretary shall by regulation require each coupon vendor at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary, or his designee, a written report of the vendor's operations during such period under the food stamp program. In addition to such other information deemed by the Secretary to be appropriate, the regulations shall require that the report contain—

"(i) the name and address of the coupon vendor;

"(ii) the total receipts of the coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the report period;

"(iii) the total amount of deposits made by the vendor of funds derived from the distribution of coupons (charges made for coupon allotments) during such period;

"(iv) the name and address of each depository receiving such funds from such vendor; and

"(v) an oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide any notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(6) The Secretary may by regulation require State agencies to provide periodic reports to the Secretary, or his designee, containing a consolidation of the respective coupon vendor's notices to such State agencies at such intervals as the Secretary in his discretion deems appropriate.

"(7) The Secretary and the United States Postal Service shall jointly arrange for the prompt deposit of funds collected by the Postal Service on behalf of a State from charges made for coupon allotments.".

ADMINISTRATION

SEC. 7. Section 10 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (a) is amended by inserting "(1)" immediately after the subsection designation and adding at the end thereof a new sentence and a new paragraph (2) as follows: "To encourage the purchase of nutritious foods, the Extension Service of the Department of Agriculture, with the technical assistance of the Food and Nutrition Service, shall extend its food and nutrition education program to the greatest extent possible to reasonably reach food stamp program recipients. The program shall be further supplemented by the development of printed materials designed to teach low-income persons how to buy and prepare more nutritious and economical meals. From the funds appropriated to carry out this Act, the Secretary is authorized to allocate to the Extension Service such sums as the Secretary determines necessary to implement the program of nutrition education.

"(2) Federal agencies that administer programs for needy people, including, but not limited to, supplemental security income and social security programs, shall make every reasonable attempt to inform recipients of those programs (who are potentially eligible for the food stamp program) of the existence of the food stamp program and its income and resource guidelines.".

(b) Subsection (c) is amended by revising clause (5) to read as follows: "(5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program;".

(c) Subsection (e) is further revised (1) by inserting in clause (7) after the word "law", the following: ", and at the option of the State agency"; (2) by deleting "and" preceding clause (8) and striking the period at the end of clause (8); and (3) by adding the following new clauses (9) and (10): "; (9) for the prompt payment to households of the bonus value of any coupon allotment which has been wrongfully denied, delayed, or terminated as a result of any administrative error on the part of the State agency: *Provided*, That application for such payment shall be filed not later than three months after the household has knowledge of such error and any such payment shall not exceed the bonus value of any such coupon allotment to which the household is determined to be entitled for a three month period: *Provided further*, That the period for which such coupon allotment may be paid shall be extended by such time, in excess of three months, as may be required to complete administrative review of the alleged wrongful denial; and (10) the institution of procedures under which the State agency shall undertake effective action to (A) determine promptly the eligibility of applicant households by providing an opportunity for each household to receive and file an application for participation in the food stamp program on the same day of such household's first reasonable attempt to make an oral or written request for such application, and (B) complete the certification of all eligible households and provide an authorization to purchase card to such households not later than thirty days after the filing of such applications.".

(d) Subsection (f) is amended to read as follows:

"(f)(1) If the Secretary determines that in the administration of the program there is a failure by a State agency to comply with the provisions of this Act, or with the regulations issued pursuant to this Act, or with the State plan of operation, he shall inform such State agency of such failure and allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within the specified period of time, the Secretary may alternatively or concurrently (A) refer the matter to the Attorney General with a request that an injunction be sought to require compliance by the State agency and, at the suit of the Attorney General in an appropriate United States district court the State agency may be so enjoined, or (B) direct that there be no further issuance of coupons in the political subdivisions where such failure has occurred until such time as satisfactory corrective action has been taken.

"(2) If any State fails substantially to carry out the State plan of operation under section 10(e) of this section (including any quality control plan) approved by the Secretary for such State for such year, the Secretary shall withhold from the State an amount equal to 10 per centum of the funds which would otherwise be payable to such State under section 15(b) for such fiscal year for administrative expenses.".

(e) Subsection (g) is amended by striking out the word "gross" in the first sentence thereof.

(f) Subsection (h) is amended by striking out the first sentence and inserting in lieu thereof the following: "Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this Act, household members who are elderly, housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to prepare adequately all of their meals, may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which (1) is operated in a manner consistent with the purposes of this Act; and (2) is recognized as a tax-exempt organization by the Internal Revenue Service.".

(g) Subsection (i) is amended by striking out ", (2), and (3)" in the first sentence thereof and inserting in lieu thereof "and (2)".

(h) Section 10 is amended by adding at the end thereof new subsections (j) and (k) as follows:

"(j) The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, is authorized to prescribe regulations permitting applicants and recipients of supplemental security income benefits under title XVI of the Social Security Act to apply for food stamps at supplemental security income certification offices. In accordance with the regulations issued by the Secretary, certification of food stamp eligibility in such offices shall be conducted by State agency personnel, and employees of the Social Security Administration in such offices shall refer supplemental security income applicants and recipients to the appropriate State agency personnel in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

"(k) In areas where there are numerous persons who speak a language other than English, multilingual personnel and printed material shall—where necessary—be used in the administration of the food stamp program.".

SETTLEMENT AND ADJUSTMENT OF CLAIMS

SEC. 8. Section 12 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof the following new sentence: "Such claims include, but are not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients.".

CRIMINAL PENALTIES

SEC. 9. Subsections (b) and (c) of section 14 of the Food Stamp Act of 1964, as amended, are amended by striking out "$5,000" and inserting in lieu thereof "$1,000".

ADMINISTRATIVE EXPENSES

SEC. 10. Section 15 of the Food Stamp Act of 1964, as amended, is amended as follows:

(a) Subsection (b) is amended—

(1) by striking out "The" and inserting in lieu thereof the following: "Except as

provided in subsection (c) of this section, the"; and

(2) by inserting at the end of clause (1) and immediately before the semicolon the following: ", exclusive of those households in which all members are receiving assistance under federally aided public assistance programs".

(b) Section 15 is amended by adding at the end thereof a new subsection (c) as follows:

"(c) Notwithstanding any other provision of this Act, the Secretary is authorized to pay to each State agency an amount equal to 75 per centum of all direct costs of State food stamp program investigations, prosecutions, and State activities related to recovering losses sustained in the food stamp program, except for the costs of such activities with respect to households in which all members are receiving assistance under federally aided public assistance programs.".

QUALITY CONTROL; ANNUAL EVALUATION PLAN; ANNUAL REPORT; PILOT PROJECT AUTHORITY; EARNINGS CLEARANCE SYSTEM STUDY; ASSETS STUDY; DATA PROCESSING STUDY

SEC. 11. The Food Stamp Act of 1964, as amended, is amended by adding at the end thereof the following new sections:

"QUALITY CONTROL AND ADMINISTRATIVE EFFICIENCY

"SEC. 18. (a) The Secretary shall establish a realistic set of national error tolerance level goals to improve quality control and administrative efficiency under this Act. Separate goals shall be set with regard to:

"(1) overissuance of bonus value of food stamps or undercharge of purchase requirement for households which fail to meet basic program eligibility requirements;

"(2) overissuance of bonus value of food stamps or undercharge of purchase requirement for eligible households;

"(3) bonus value of stamps underissued or overcharge of purchase requirement to eligible households;

"(4) invalid decisions to certify or deny eligibility.

Interim tolerance levels shall be established for achievement at the end of one year, two years, and five years following the date of enactment of this section.

"(b)(1) Each State shall be required to develop and submit to the Secretary for approval, as a part of the plan of operation required to be submitted under section 10 (e), a quality control plan for the State which shall specify the actions such State proposes to take in order to meet the error tolerance goals established by the Secretary. The quality control plan for any State shall specify the anticipated caseload work for the coming year and the manpower requirements needed and the specific administrative mechanisms proposed to be used to carry out the food stamp program in such State and to meet the error tolerance goals established by the Secretary.

"(2) The Secretary shall approve any quality control plan submitted by any State if he determines such plan will achieve the goals established.

"(3) The quality control program for any State shall also be required to include plans for a comprehensive program of training for all certification workers who will be engaged in implementing the certification regulations provided for under section 5(b) of this Act.

"(4) Any training program approved by the Secretary as part of a quality control program for any State shall be maintained on a continuing basis to insure a satisfactory performance level for all new workers engaged in carrying out the food stamp program in such State.

"(5) As used in this section, the term 'quality control' means monitoring and correcting the rate of errors committed in determining the correct level of benefits to be provided households upon certification of their eligibility.

"ANNUAL EVALUATION PLAN

"SEC. 19. (a) The Secretary shall prepare and submit to the Congress, at the same time the President submits his budget to the Congress each year, an annual evaluation plan setting forth the Department of Agriculture's plans for evaluating the major objectives of the food stamp program, the extent to which such objectives are being achieved, and the cost and time requirements for carrying out such plans.

"(b) The Secretary shall indicate in his annual evaluation plan the issues and objectives to be evaluated. Such issues and objectives shall specifically include—

"(1) the nutritional intake of the individuals participating in the food stamp program;

"(2) the relative fairness of the food stamp program between different income levels and age groups;

"(3) the relative fairness of the food stamp program as between different regions of the United States;

"(4) an evaluation of the success of the outreach programs; and

"(5) an evaluation of any other issues and objectives specified by the Secretary.

"ANNUAL REPORT TO CONGRESS

"SEC. 20. The Secretary shall prepare and submit to the Congress, at the same time the President submits his budget to the Congress each year, a report entitled 'Annual Report on the Food Stamp Program'. The Secretary shall include in such report—

"(1) a summary of the achievements, failures, and problems of the States in meeting the quality control goals established under section 18 of this Act;

"(2) recommendations for an analysis of quality control goals for the next one, two, and five year periods;

"(3) a summary of all evaluation activities conducted by the Department of Agriculture in accordance with the annual evaluation plan provided for in section 19 of this Act;

"(4) recommendations for program modifications based upon an analysis of quality control and evaluation information;

"(5) recommendations for any additional isues for evaluation; and

"(6) such other recommendations for legislative or administrative action as the Secretary may deem appropriate.

"PILOT PROJECT AUTHORITY

"SEC. 21. In carrying out the provisions of this Act, the Secretary is authorized to carry out on a trial basis, in one or more areas of the United States, but in no event for more than 10 per centum of the participating population of any State, experimental projects for purposes of increasing the program's efficiency and delivery of benefits to eligible households. Except for the pilot project mandated by section 24 of this Act, no project shall be implemented which would lower or further restrict the resource and income limitations, or increase the purchase requirement, provided for under this Act.

"STUDY OF EARNINGS CLEARANCE SYSTEM

"SEC. 22. The Secretary is authorized and directed to conduct a study of the feasibility and advisability of the establishment of an earnings clearance system (which system shall be consistent with the Privacy Act of 1974 (5 U.S.C. 552a), insofar as it provides for the use of information from records of Federal agencies, and with any other applicable privacy law insofar as it provides for the use of information from non-Federal records) for the purpose of checking the actual income and assets of a household against those reported by such household. The Secretary shall submit a written report to the Congress within one year after the date of enactment of this section, disclosing the results of such study. The report shall include such explanations and comments as the Secretary deems appropriate.

"ASSETS STUDY

"SEC. 23. The Secretary shall conduct a survey of households participating in the food stamp program for the purpose of determining the average assets and distribution of assets held by participants. The Secretary shall submit a written report to the Congress within one hundred and eighty days after the date of enactment of this section, disclosing the results of such survey. The report shall include such explanations and comments as the Secretary deems appropriate.

"PILOT PROJECT ON ELIMINATION OF PURCHASE REQUIREMENT

"SEC. 24. Within ninety days after the date of enactment of this section, the Secretary shall implement a pilot project testing the effect of elimination of the purchase requirement specified in section 6 of this Act. Such project shall be carried out in a statistically significant number of project areas, or parts of project areas, not fewer than ten, in geographically dispersed urban and rural regions, and shall employ a benefit reduction ratio of not higher than 30 per centum of household income. Not later than March 1, 1977, the Secretary shall report to the Congress on the progress of such project, including statistical information on participation rates, changes in food consumption patterns, impact on benefit costs and administrative costs, and other observations and recommendations which he may deem appropriate. From the sums appropriated to carry out this Act, the Secretary is authorized to allocate not more than $20,000,000 to carry out his responsibilities under this section.

"AUTOMATIC DATA PROCESSING STUDY

"SEC. 25. The Secretary shall conduct a study relating to the current utilization of automatic data processing equipment by States and localities in the administration of the food stamp program, and report his findings to the Congress not later than January 1, 1977. Such study shall include, but not be limited to, the following:

"(a) The degree to which States and localities utilize data processing equipment and other computer technology in the administration of the food stamp program;

"(b) The effects of such utilization on the delivery of services to qualified recipients;

"(c) The net cost impact of such utilization on the program, including the expense of purchase, operation and maintenance of such equipment, and any cost savings which may have resulted because of such utilization;

"(d) The degree to which error and fraud have been or may be detected more efficiently through such utilization;

"(e) An inventory of existing Federal programs which provide funds for use by States and localities for the purchase, operation and maintenance of such equipment, or the training of personnel to operate or maintain such equipment together with an assessment of the degree of participation of States and localities in such programs;

"(f) The degree to which data processing equipment is utilized by States and localities in the administration of other Federal programs concerned with the delivery of services to individuals; and

"(g) The desirability of the utilization of data processing equipment or other computer technology in the administration of the food stamp program, and, if such utilization is deemed to be desirable, recommendations relating to the encouragement of greater utilization of such equipment."

CONFORMING AMENDMENTS

SEC. 12. (a) Section 3(b) and section 4(c) of Public Law 93-86 are repealed.

(b) The last sentence of section 416 of

the Act of October 31, 1949 (as added by section 411(g) of Public Law 92-603), is repealed.

(c) Section 8(c) of Public Law 93-233 is amended by striking out "section 3(e) of the Food Stamp Act of 1964 (as amended by subsection (a) of this section) and subsections (b) (3) and (f)" and inserting in lieu thereof "section 5(1) of the Food Stamp Act of 1964, as amended, and subsections (b) (3) and (e)".

(d) Section 8(e) of Public Law 93-233 is amended by striking out everything through "during such period," and inserting in lieu thereof "The amendment made by subsection (d) shall not".

ESTABLISHMENT OF ADDITIONAL ASSISTANT SECRETARY OF AGRICULTURE

SEC. 13. (a) There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided by law, an Assistant Secretary of Agriculture for Food and Nutrition Programs who shall (1) be appointed by the President, by and with the advice and consent of the Senate, and (2) receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(b) Section 5315 of title 5 of the United States Code is amended by striking out "(4)" at the end of paragraph (11) and by inserting in lieu thereof "(5)".

SPECIAL TEMPORARY ELIGIBILITY FOR CERTAIN HOUSEHOLDS

SEC. 14. Notwithstanding any other provision of law, any household which lost the head of such household as a result of the Scotia coal mine disasters which occurred on March 9 and 11, 1976, at Oven Fork, Kentucky, shall be eligible for a coupon allotment under the Food Stamp Act of 1964 for a period of six months after the date of enactment of this section without having to meet any requirements of eligibility for such allotment prescribed by law or regulation.

COMMODITIES FOR INDIAN RESERVATIONS

SEC. 15. Notwithstanding any other provision of law, the Secretary shall, during the period from enactment of this statute until September 30, 1978, purchase agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of commodity food assistance on Indian reservations not requesting a food stamp program and on Indian reservations making an orderly transition to the food stamp program.

Mr. TALMADGE. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. (Mr. STONE), The Chair, on behalf of the Vice President, appoints the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) to the Conference of the International Labor Organization, to be held in Geneva, Switzerland, June 2-23, 1976.

EMERGENCY FOOD STAMP VENDOR ACCOUNTABILITY ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 682, S. 2853, a bill to amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors, introduced by the distinguished Senator from North Carolina (Mr. HELMS).

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

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2853) to amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors,

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

That this Act may be cited as the "Emergency Food Stamp Vendor Accountability Act of 1976".

SEC. 2. Section 7(d) of the Food Stamp Act of 1964, as amended, is amended by inserting "(1)" immediately after "(d)", and adding at the end thereof new paragraphs (2) through (7) as follows:

"(2)(A) The Secretary shall by regulation prescribe the manner in which funds derived from the distribution of coupons (charges made for coupon allotments) shall be deposited by coupon vendors. The regulations shall contain provisions requiring that coupon vendors promptly deposit such funds in the manner prescribed by the Secretary: Provided, That such regulations shall, at a minimum, require that such deposits be made weekly: Provided further, That such regulations shall, at a minimum, require that upon the accumulation of a balance on hand of $1,000 or more, such deposits be made within two banking days following the accumulation of such amount.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating the regulations issued under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(3)(A) Coupon vendors receiving funds derived from the distribution of coupons (charges made for coupon allotments) shall be deemed to be receiving such funds as fiduciaries of the Federal Government, and such coupon vendors shall immediately set aside all such funds as funds of the Federal Government. Funds derived from the distribution of coupons (charges made for coupon allotments) shall not be used, prior to the deposit of such funds in the manner prescribed by the Secretary, for the benefit of any person, partnership, corporation, association, organization, or entity other than the Federal Government.

"(B) Any coupon vendor or any officer, employee, or agent thereof, convicted of violating subparagraph (A) of this paragraph shall be fined not more than $10,000, or a sum equal to the amount of funds involved in the violation, whichever is the greater, or imprisoned not more than ten years, or both: Provided, That if the amount of such funds is less than $1,000, such vendor shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(4)(A) The Secretary shall by regulation require that upon the deposit, in the manner prescribed by the Secretary, of funds derived from the distribution of coupons (charges made for coupon allotments), coupon vendors shall immediately send a written notice to the State agency, accompanied by an appropriate voucher, confirming such deposit. In addition to such other information deemed by the Secretary to be appropriate, such regulations shall require that the notice contain—

"(i) the name and address of the coupon vendor;

"(ii) the total receipts of such coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the deposit period;

"(iii) the amount of the deposit;

"(iv) the name and address of the depository; and

"(v) an oath, or affirmation signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in such notice is true and correct to the best of such person's knowledge and belief.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide the notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(5)(A) The Secretary shall by regulation require each coupon vendor at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary, or his designee, a written report of the vendor's operations during such period under the food stamp program. In addition to such other information deemed by the Secretary to be appropriate, the regulations shall require that the report contain—

"(i) the name and address of the coupon vendor;

"(ii) the total receipts of the coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the report period;

"(iii) the total amount of deposits made by the vendor of funds derived from the distribution of coupons (charges made for coupon allotments) during such period;

"(iv) the name and address of each depository receiving such funds from such vendor; and

"(v) an oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide any notice required under subparagraph (A) of this paragraph shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(6) The Secretary may by regulation require State agencies to provide periodic reports to the Secretary, or his designee, containing a consolidation of the respective coupon vendor's notices to such State agencies at such intervals as the Secretary in his discretion deems appropriate.

"(7) The Secretary and the United States Postal Service shall jointly arrange for the prompt deposit of funds collected by the Postal Service on behalf of a State from charges made from coupon allotments.'".

SEC. 3. Section 6 of the Food Stamp Act of 1964, as amended, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and inserting new subsections (b) and (c) as follows:

"(b)(1) The Secretary shall by regulation develop an appropriate procedure for determining and monitoring the level of coupon

inventories in the hands of coupon vendors for the purpose of insuring that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such vendors). Any such regulations shall contain procedures to insure that coupon inventories shall contain procedures to insure that coupon inventories in the hands of coupon vendors are not in excess of the reasonable needs of such vendors taking into consideration the ease and feasibility of resupplying such coupon inventories. The Secretary may, at his discretion, require periodic reports from such coupon vendors respecting the level of such inventories.

"(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide a report required under paragraph (1) of this subsection shall be fined not more than $3,000, or imprisoned not more than one year, or both.

"(3) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required under paragraph (1) of this subsection shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

"(c) (1) The Secretary shall by regulation prescribe appropriate procedures for the delivery of coupons to coupon vendors and for the custody, care, control, and storage of coupons in the hands of coupon vendors in order to secure such coupons against theft, embezzlement, misuse, loss, or destruction.

"(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted by violating any regulations issued under paragraph (1) of this subsection shall be fined not more than $3,000, or imprisoned not more than one year, or both.".

SEC. 4. Section 3 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof a new subsection (o) as follows:

"(o) The term 'coupon vendor' means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibility in connection with, the issuance of coupons to households.".

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 10 minutes, the time to be equally divided between the sponsor of the bill, the distinguished Senator from North Carolina (Mr. HELMS), and the manager of the bill or his designee.

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

Mr. MANSFIELD. Mr. President, I understand that several Members desire the yeas and nays. At this time, to put the matter to rest, 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. HELMS. Mr. President, we finally have before us this evening a food stamp measure that all Senators can support with impunity. This bill is entitled, appropriately, the "Emergency Food Stamp Vendor Accountability Act." It has more than 30 cosponsors. It is limited in scope and it applies only to those who sell food stamps.

Vendors are the only persons in the food stamp system who are not now covered by criminal penalties for fraud and misuse of funds. Criminal sanctions may be established by statute only. Regulations are not sufficient to create criminal penalties. Assistant Secretary of Agriculture Feltner stated at the January 21 food stamp hearing before the Committee on Agriculture and Forestry:

Legislation is definitely needed to rectify the problem of improper use of receipts from food stamp sales by vendors.

Mr. President, I believe that the provisions of this bill are well known to all Senators. As a matter of fact, this bill was incorporated into the measure just passed by the Senate. I shall not consume further of the Senate's time.

I ask unanimous consent that a summary of this legislation be printed in the RECORD at this point.

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

SUMMARY OF S. 2853, THE EMERGENCY FOOD STAMP VENDOR ACCOUNTABILITY ACT

1. This legislation, which now has 31 cosponsors, is limited in scope and applies only to those who sell food stamps.

(a) Vendors are the only persons in the food stamp system who are not now covered by criminal penalties for fraud and misuse of funds.

(b) Criminal sanctions may be established by statute only; regulations are not sufficient to create criminal penalties.

(c) Assistant Secretary of Agriculture Richard Feltner stated at the January 21 Food Stamp hearings that "legislation is definitely needed" to rectify the problem of improper use of receipts from food stamp sales by vendors.

2. This bill would:

(a) Clarify that receipts from the sale of food stamps are Federal funds. Any vendor using such funds for his own benefit would be guilty of embezzlement, punishable by a fine of not more than $10,000, or a sum equal to the amount embezzled, or imprisonment for up to ten years, or both.

(b) Require timely, verified reports of receipts and deposits by vendors to state agencies responsible for the administration of the program and to the Department of Agriculture.

(c) Direct the Secretary of Agriculture to establish procedures to monitor the inventories of food stamps held by vendors and to provide standards to safeguard them against misuse by vendors.

3. This bill has been designed to be compatible with existing regulations and policy. Further, it is compatible with all of the reform bills under consideration by the Committee. As long as food stamps are sold or dispensed in any manner by agents contracted by the states or the Federal Government, it is highly desirable to cause such agents to be accountable in the same way as those who cash them (the grocers and the recipients).

Mr. EAGLETON. Mr. President, I compliment my distinguished colleague from North Carolina (Mr. HELMS) for introducing S. 2853.

As my colleagues know, I, too, am deeply interested in cleaning up the present food stamp vendor system. I have, therefore, asked the General Accounting Office to study and critically examine the present vendor system that is used by the U.S. Department of Agriculture in hopes of finding ways to improve on the present vendor system. It is my opinion that the language contained in S. 2853 will go a long way in restoring the confidence that the American public once had in the food stamp program.

In addition to other vendor reform measures, S. 2853 rightfully establishes penalty provisions for those vendors who do not comply with the strict vendor accountability and depositing provisions that the bill sets forth. Without question, those vendors who intentionally and/or maliciously try to fraud the food stamp program should be punished. However, most of our vendors throughout the country have provided the food stamp recipient and the American taxpayer with a vendor service that is basically honest. Therefore, I want to make sure that the legislative history of this bill shows that Congress does not mean to punish a good vendor for an isolated event of noncompliance because of, for example, a malfunction in equipment. I feel quite certain that my distinguished colleague from North Carolina does not want to deter "good" vendors from participating in the food stamp program. Therefore, Mr. President, I would like to ask my colleague from North Carolina (Mr. HELMS) if it is his intention to punish those vendors who are in substantial compliance with the law on a regular basis, but for some unforeseen isolated circumstance find themselves out of compliance with the provisions of S. 2853.

Mr. HELMS. I thank the distinguished Senator from Missouri (Mr. EAGLETON) for his kind remarks, and commend him for his thoroughness in seeking to establish the specific legislative intent of the penalty provisions of S. 2853.

In response to the Senator's question, it is not the intent of this bill to punish any vendor who is in substantial compliance with the law on a regular basis. The bill states a maximum penalty, not a minimum penalty. A fine could be nominal, with no additional action. And, of course, the decision whether to prosecute rests with the Justice Department. In the case of minor infractions without demonstrable intent to break the law, I doubt that the Justice Department would decide to pursue it.

In any event, there is a great deal of latitude, and I believe that the bill accommodates the Senator's concern.

Of course, in the instances of flagrant abuses, it is my hope that judges will be stern and impose stiff penalties.

Certainly there is no intention unduly to penalize a thoroughly honest vendor who has maintained a very good record of timely deposits and who is only late by a short period of time because of clerical error, and the legislative intent is not to require such action.

Mr. EAGLETON. I thank the Senator.

Mr. MANSFIELD. Will the Senator yield?

Mr. HELMS. I yield.

Mr. MANSFIELD. Will the Senator allow me to become the 31st sponsor of his bill?

Mr. HELMS. I am delighted to do it. I ask unanimous consent that the distinguished Senator from Montana be added.

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

Mr. DOLE. Mr. President, as an original cosponsor of S. 2853, I am pleased to vote for the bill authored by the distinguished Senator from North Carolina

(Mr. HELMS). This bill will insure vendor accountability for food stamps distributed and cash collected as purchase prices. I hope that the House will not wait for the major food stamp reform bill to be considered before tightening food stamp vendor accountability.

As part of S. 3136, the National Food Stamp Reform Act of 1976, we have included the major food stamp vendor accountability provisions contained in S. 2853.

The major new criminal penalties provided for by this bill will discourage the misuse of food stamp receipts by vendors—a practice which has already cost the American taxpayers over $7 million.

I commend the Senator from North Carolina for offering this amendment. For, if enacted, it will greatly improve the operation of the food stamp program.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Alabama (Mr. SPARKMAN) be added as cosponsor.

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

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

The PRESIDING OFFICER. All time being yielded back, the bill is open to further amendment.

There being no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

Mr. MANSFIELD. Mr. President, for the information of the Senate, this will be the last vote tonight.

The PRESIDING OFFICER. The question is, shall the bill pass? 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 Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from New Mexico (Mr. MONTOYA), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Iowa (Mr. CULVER) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN), the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senators from Minnesota (Mr. HUMPHREY, and Mr. MONDALE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

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

The result was announced—yeas 71, nays 0, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—71

Abourezk	Griffin	Nunn
Allen	Hansen	Packwood
Baker	Hart, Philip A.	Pearson
Bartlett	Haskell	Pell
Bayh	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Helms	Ribicoff
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Javits	Scott, William L.
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Laxalt	Stennis
Clark	Leahy	Stevenson
Cranston	Long	Stone
Dole	Magnuson	Taft
Domenici	Mansfield	Talmadge
Eagleton	Mathias	Thurmond
Eastland	McClure	Tower
Fannin	McGee	Weicker
Fong	McGovern	Williams
Ford	Morgan	Young
Garn	Moss	
Glenn	Muskie	
	Nelson	

NAYS—0

NOT VOTING—29

Beall	Goldwater	Metcalf
Bellmon	Gravel	Mondale
Bentsen	Hart, Gary	Montoya
Biden	Hartke	Pastore
Brock	Hruska	Randolph
Buckley	Humphrey	Scott, Hugh
Church	Inouye	Stevens
Culver	Jackson	Symington
Curtis	McClellan	Tunney
Durkin	McIntyre	

So the bill (S. 2853), as amended, was passed.

CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 1977

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 699, Senate Concurrent Resolution 109, and that it be laid before the Senate and made the pending business.

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

The clerk will state the concurrent resolution.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the United States Government for the fiscal year 1977 (and revising the congressional budget for the transition quarter beginning July 1, 1976).

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during the consideration of Senate Concurrent Resolution 109.

I understand that we have not yet remedied this antiquity in the rules to permit use of anything but the original hand calculators.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MUSKIE. I yield to the distinguished Senator from Connecticut.

Mr. RIBICOFF. I thank the Senator from Maine.

SENATE RESOLUTION 428—DISAPPROVING CERTAIN REGULATIONS PROPOSED BY THE ADMINISTRATOR OF GENERAL SERVICES UNDER SECTION 104 OF THE PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

Mr. RIBICOFF. Mr. President, on behalf of Senator PERCY and myself, I send a resolution to the desk and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 428) disapproving certain regulations proposed by the Administrator of General Services under section 104 of the Presidential Recordings and Materials Preservation Act.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. RIBICOFF. Mr. President, on October 15, 1975, GSA submitted revised regulations providing for public access to the Nixon tapes pursuant to the 1974 Presidential Recordings and Materials Preservation Act. Under the provisions of the statute, those regulations will automatically become effective at the expiration of 90 legislative days after submission unless either House of Congress adopts a resolution of disapproval. However, on January 21, 1976, the Congress was notified by the GSA Administrator that, at the request of the Justice Department, he was withdrawing the October 15 proposed regulations pending a review of their constitutionality. On February 5, Senator PERCY, Representative BRADEMAS, and I responded that GSA had no legal authority to withdraw the proposed regulations, and that the Congress therefore does not recognize the attempted withdrawal as being valid. The Government Operations Com-

mittee has been operating under the assumption that the October 15 proposed regulations are still pending before the committee.

Serious questions have been raised about seven provisions of the October draft—reflecting concerns raised by the committee when it disapproved the original draft of the regulations last September, as well as certain reservations expressed recently by the Justice Department. The committee staff and GSA have been unable to resolve these questions to date, which involve the composition of the Presidential Materials Review Board—which is responsible for the final archival decisions regarding the disposition of the tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures to be followed by the Administrator in considering petitions to protect certain legal or constitutional rights by limiting access to specified materials; the procedures for allowing reproduction of the Nixon tapes; and two provisions relating to the restriction of materials which are personal in nature or which would result in a defamation of character.

Under one of the two interpretations of "legislative days," as set forth in the statute, today would be the last opportunity for congressional disapproval of the October 15 proposed regulations. In order to keep the disputed provisions from going into effect, assuming that today is the 90th legislative day, the Senate must act now to adopt a resolution disapproving those seven provisions. This will require GSA to submit a new draft of the seven provisions to Congress. The bulk of the regulations—about which there is no dispute—will be allowed to go into effect as soon as the 90-day period has expired.

It is my understanding that GSA is ready to submit amended regulations, and it is our hope that we will be able to resolve our differences in the near future.

This has been cleared with the leadership on both sides.

Mr. PERCY. Mr. President, I fully agree with my colleague, Chairman RIBICOFF, that this resolution is both necessary and appropriate. We have devoted a great deal of time and a considerable amount of effort to make these regulations just as constructive as possible, and it would be foolish to allow a procedural hurdle to jeopardize our joint efforts with the General Services Administration to insure that the 1974 act which gave the people custody of the Nixon materials is properly and effectively implemented. I urge my colleagues to give their unanimous consent to immediate favorable consideration of this resolution.

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

The resolution (S. Res. 428) was agreed to, as follows:

SENATE RESOLUTION 428

Resolved, That pursuant to the provisions of section 104(b) of the Presidential Recordings and Materials Preservation Act (Public Law 93-526), the Senate hereby disapproves § 105-63.104(b), § 105-63.401, § 105-63.401-1, § 105-63.401-2(g), § 105-63.402-1(b), § 105-63.402-2(b), and § 105-63.404 of the regulations proposed by the Administrator of General Services in his report to the Senate submitted on October 15, 1975.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. I yield to my good friend from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

SENATE RESOLUTION 427—TO AUTHORIZE WILLIAM B. GALLINARO, A STAFF INVESTIGATOR FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, TO TESTIFY BEFORE A GRAND JURY SITTING AT NEWARK, N.J.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN, I send a resolution to the desk that has been cleared on both sides of the aisle and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 427) to authorize William B. Gallinaro, a staff investigator for the Senate Permanent Subcommittee on Investigations, to testify before a grand jury sitting at Newark, New Jersey.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. NUNN. Mr. President, the U.S. attorney for the district of New Jersey has formally requested that William B. Gallinaro, staff investigator for the Permanent Subcommittee on Investigations, be permitted to appear before a grand jury sitting in Newark, N.J. Mr. Gallinaro has been requested to present testimony regarding any information he may have obtained as a staff investigator pertaining to an alleged conspiracy to obstruct the enforcement and administration of the Federal criminal laws within the district of New Jersey.

Pursuant to rule XX of the standing rules of the Senate, and the privileges of the Senate, information secured by staff members pursuant to their official duties as employees of the Senate may not be revealed without a resolution of the Senate.

Accordingly, Mr. President, I offer the following resolution, approved by a majority of the members of the Committee on Government Operations, authorizing Mr. Gallinaro to appear and testify before the grand jury sitting at Newark, N.J.

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

The resolution (S. Res. 427) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

SENATE RESOLUTION 427

Whereas, the United States Attorney for the District of New Jersey has formally requested in writing the appearance of William B. Gallinaro, Staff Investigator for the Senate Permanent Subcommittee on Investigations, to testify on April 9, 1976, before a Grand Jury sitting at Newark New Jersey, investigating an alleged conspiracy to obstruct the enforcement and administration of the federal criminal laws within the District of New Jersey; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no information secured by staff employees of the Senate pursuant to their official duties may be revealed without the consent of the Senate; therefore be it

Resolved, that William B. Gallinaro is authorized to appear before the Grand Jury sitting at Newark, New Jersey, and to testify as to any knowledge he may have gained since November 1, 1975, pertaining to a conspiracy to obstruct the enforcement and administration of federal criminal laws within the District of New Jersey in the matter presently being considered by said Grand Jury.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States Attorney for the District of New Jersey.

FISCAL YEAR TRANSITION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2444.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate the amendment of the House of Representatives to the bill (S. 2444) to provide for the orderly transition to the new October 1 to September 30 fiscal year.

(The amendment of the House is printed in the RECORD of April 6, 1976, beginning at page 9531).

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

The motion was agreed to.

FISCAL YEAR ADJUSTMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2445.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate the amendment of the House of Representatives to the bill (S. 2445) to provide permanent changes in laws necessary because of the October-September fiscal year.

(The amendment of the House is printed in the RECORD of April 6, 1976, beginning at page H2897).

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

The motion was agreed to.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in accordance with paragraph 1 of Rule V of the Standing Rules of the Senate, that Mr. DURKIN be granted a leave of absence for the remainder of the day, and for to-

morrow, by virtue of the fact that he will be in New Hampshire attending field hearings of the Commerce Committee tomorrow. He had to leave the Senate earlier today in order to attend that meeting.

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

ORDER FOR RECOGNITION OF SENATOR LEAHY ON TUESDAY, APRIL 13, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, after the two leaders or their designees are recognized under the standing order, Mr. LEAHY be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BARTLETT ON MONDAY, APRIL 12, 1976

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

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

ORDER TC RESUME CONSIDERATION OF SENATE CONCURRENT RESOLUTION 109

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, the Senate resume consideration of the then unfinished business, which is Senate Concurrent Resolution 109, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1977—and revising the congressional budget for the transition quarter beginning July 1, 1976.

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

CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 1977

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the U.S. Government for the fiscal year 1977—and revising the congressional budget for the transition quarter beginning July 1, 1976.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget be granted the privilege of the floor during consideration of and votes on the pending business:

Douglas Bennet, John McEvoy, Sid Brown, Arnold Packer, Jim Storey, Dan Twomey, Tom Dine, Faye Hewlett, Nancy Haslinger, Bob Sneed, Charles Flickner, Terry Finn, John Giles, Rodger Schlickeisen, Lauren Walters, Tony Carnevale, Karen Schubeck, Becky Beauregard, Mike West, Ira Tannenbaum, Heather Ross, Hal Gross, Jon Steinberg, Jack Wickes, and Andrew Hamilton.

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

Mr. DOLE. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget be allowed the privilege of the floor during the consideration of and votes on Senate Concurrent Resolution 109:

Robert S. Boyd, Kenneth R. Biederman, Hayden Bryan, Edmond Q. (Ted) Haggart, Franklin Jones, Charles D. McQuillen, Reid Nagle, David Shilling, Frank G. Steindl, William L. Stringer, and John Walker.

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

Mr. MUSKIE. Mr. President, the Senate today begins debate on Senate Concurrent Resolution 109, the first concurrent resolution on the Federal budget for fiscal 1977.

The first concurrent resolution is the most broad-ranging measure we will have before us this session. Our debate on it will largely determine America's economic and budgetary priorities for the next year.

Once it is adopted, our adherence to it will demonstrate Congress capacity for self-discipline and leadership.

A year ago, at the beginning of our debate on the very first concurrent resolution on the budget, I said:

The budget and impoundment control act of 1974 is not a bookkeeping tool. It is a policy instrument that gives us new control over the direction America takes . . . If we *did not* have an instrument for making overall fiscal policy and monetary judgments . . . If we *did not* have a way to total up spending programs before we make commitments rather than after we make them . . . Then we would be searching for one.

For Congress must now shape a recovery program that will help pull the United States out of the worst recession in a generation.

I went on to say that the pinch of fiscal realism would frustrate the Members of the Senate as it had the members of the Budget Committee in working out that year's resolution. But I expressed confidence in the ability of this body and the Congress to live up to the promise of the Budget Reform Act.

We did face up to the need for an expansive fiscal policy. Now the economy is recovering.

We did discipline our spending choices, even though it was painful from time to time, and now the budget process, after its first year of operation, is bringing us in close to target.

PRIORITIES FOR FISCAL 1977

As we confront this year's resolution, the Nation's needs are different:

To promote the steady pace of economic recovery—to keep America moving toward full employment and a balanced budget;

To avoid any action, such as an increase in payroll taxes, which would increase the rate of inflation;

To maintain antirecession programs and Federal support for health, education, and other social services at roughly constant levels;

To permit real growth in defense expenditures, so that no other power misreads U.S. intentions to protect the interests of its own people and its allies; and

To accelerate research on new resources of energy and conservation programs and to promote the recovery of existing energy resources.

My colleagues will find all of these priorities reflected in Senate Resolution 109—in the overall figures and in the figure for each budget function.

Nobody in the Senate is going to like every one of those figures. I doubt if anybody on the Budget Committee liked every one of those figures. I expect some of them may be amended.

That is fine with me. This budget resolution is not Holy Writ. It is the best compromise the Budget Committee can put before the Senate. It is a reasonable compromise which reflects the Nation's priorities as we understand them. But it is neither the beginning nor the end of the fiscal year 1977 budget process. It is simply a reference point to help the Senate express its will.

I am anxious to see the Senate make whatever changes it must to make this resolution its own—because I am also anxious to see the Senate accept the discipline of decisions it finally makes. Let us make our changes now, in a conscious and orderly fashion, so that we can then enforce the result as we pass our separate spending and taxing bills during the rest of this session.

FISCAL POLICY IN FISCAL YEAR 1977

Largely as a result of congressional decisions made in the last session, this year's fiscal situation is far less threatening than last year's. Unemployment and inflation are down, and so is the deficit.

Much of the credit for the Nation's improved economic circumstances must rightly go to the budget Congress adopted last year, which—

Expanded the President's proposed tax reductions;

Altered the administration's priorities, channeling an additional $4.5 billion into antirecession programs; and

Deferred long-range programs in favor of short-term programs to help stimulate the economy and ease the burden of unemployment.

Continued joblessness. The Nation's jobless rate has fallen from 8.5 to 7.5 percent during the past 12 months.

Despite this progress, however, more jobs must remain a high Federal priority. Since March of last year, for example, some 2.7 million jobs have been created, yet the net drop in unemployment over

that time has been only 750,000. One of the byproducts of the recovery has obviously been to bring frustrated jobseekers back to the labor market. They must not be frustrated again.

By the end of 1977, this budget will produce up to 750,000 more jobs than the President's budget. The committee rejects the President's proposal to terminate present public service employment programs. In addition, we have allowed $1 billion for countercyclical assistance to State and local governments hit hard by recession. Finally, our proposed budget will produce a stronger economy generally than the President's budget, which will add to the number of available jobs.

Inflation has subsided even more dramatically from the double-digit rates of 1974.

During the past year, the Labor Department index of consumer prices has risen at a rate of 6.3 percent. During the past quarter the moderation has been even more pronounced, with the rate dropping to 4.4 percent.

This is evidence that we can reduce unemployment further without accelerating inflation. For a long time we believed there was an unavoidable tradeoff between the two.

The committee recognizes that neither problem can be ignored while we attempt to find solutions to the other. As the committee report states:

Avoiding a resurgence of rapid inflation is crucial to economic recovery from high unemployment.

The committee report emphasizes, however, that it would be a "tragic mistake for the Nation to repeat old errors of fiscal and monetary judgment that would choke off the hard-won recovery."

From the evidence presented to the committee, the clear need is to maintain the current steady pace of recovery, while avoiding any actions that would cause an inflationary resurgence.

To achieve these goals the committee recommends the following overall fiscal targets for fiscal year 1977:

Total new budget authority of $454.9 billion;

Total budget outlays of $412.6 billion;

Total revenues of $362.4 billion;

Resulting in a deficit of $50.2 billion; a reduction of one-third from this year's projected deficit; and

A public debt level of $711.5 billion.

FEDERAL OUTLAYS

The committee's recommended overall outlay figure reflects considerable fiscal restraint.

The $412.6 outlay total is $8.8 billion below what would be spent if the same policies and laws contemplated in last year's second concurrent resolution were continued through fiscal year 1977. Had the committee simply taken the same policies, adjusted them for inflation and shifts in various beneficiary groups, the level of outlays now recommended for fiscal year 1977 would have been $421.4 billion.

The committee's recommended overall outlay target is higher than that proposed by the administration chiefly because the Budget Committee decided to maintain programs in employment, health, education, and social services at or near current policy level.

INFLATION

In addition to an overall fiscal restraint, the committee report discourages specific actions which increase prices and the inflation rate in particular sectors.

It recommends, for example, that Federal pay be held to a "cap" during the coming year. It also argues against a reduction in postal or mass transit subsidies, which would have the effect, direct or indirect, of increasing consumer costs. The report's recommended level for health also implies a reduction in that sector's rate of inflation. The administration's proposal to increase taxes for social security and unemployment insurance were also rejected, avoiding an inflationary increase in payroll costs.

REVENUES AND TAX EXPENDITURES

The committee report calls for a total revenue collection during fiscal year 1977 of $362.4 billion. It further recommends that in meeting this revenue total Congress fully extend the temporary tax reductions enacted in December of last year through fiscal year 1977.

The committee report also recommends the establishment of a $2 billion target for net revenue increases through legislation aimed at existing tax expenditures and related provisions.

The committee report views this target as a "first step" toward controlling the growth of tax expenditures currently associated with a projected $105.0 billion total revenue loss during fiscal year 1977. It urging adoption of this target, the committee believes it just as important to control the growth of tax expenditures as to control direct Federal spending.

As I mentioned before, the committee also rejected any additional increase in payroll taxes not already mandated in existing law.

The committee's overall revenue target for fiscal year 1977 rests upon a number of economic assumptions concerning growth in gross national product, profits and personal income. I ask unanimous consent that a set of tables illustrating our revenue calculations, together with underlying economic assumptions, be printed in the RECORD at this point.

I ask unanimous consent that the RECORD also include at this point an allocation of the $362.4 billion revenue total by major source as is required to appear in our report by the Congressional Budget Act.

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

Fiscal year 1977 revenues

	Billions
Tax law as of January 1, 1976	$377.7
Extension of December 1975 temporary tax reductions	−17.3
Net increase from tax expenditures legislation	+2.0
Total	362.4

Economic assumptions underlying revenue estimate

[In billions of dollars]

	Calendar year 1976	Calendar year 1977
GNP	1,690	1,885
Profits	160	185
Personal Income	1,390	1,540

Allocation of Federal revenues by major source

	Billions
Individual income tax	$160.9
Corporation income tax	57.8
Social insurance taxes	106.6
Excise taxes	17.8
Estate and gift taxes	6.0
Customs duties	4.3
Miscellaneous revenues	7.0
Net increase from tax expenditure legislation	2.0

FEDERAL DEFICIT

Mr. MUSKIE. The committee recommends a Federal deficit target for fiscal year 1977 of $50.2 billion. Like the current budget deficit, this figure results entirely from revenue losses and increased Government costs—for such programs as unemployment compensation and food stamps, which are caused by less than full employment. The deficit remains a symptom of our Nation's economic weakness, not its cause.

COMPARED TO FORD DEFICIT

Despite any rhetoric to the contrary, no significant difference exists between the deficit set forth in our committee's report than that proposed by the Ford administration. When put on the same basis—that is, when nonpolicy differences in accounting and projections are factored out—the difference between the Senate Resolution 109 deficit and the President's budget deficit is less than a billion dollars.

I ask unanimous consent that a table reconciling the two deficit figures be printed in the RECORD at this point.

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

[In billions of dollars]

President's January budget deficit	$43.0
Plus:	
Increase projected by the President's March budget update	1.6
Adjustment for more accurate estimates of offshore oil receipts	2.0
Increased Postal Service funding requirements	1.3
Correction for underestimates of required funding for existing human resources programs	1.4
President's adjusted deficit	49.3

MONETARY ACCOMMODATION

Mr. MUSKIE. The committee's fiscal targets for fiscal year 1977 are consistent with real economic growth rate of 6 percent. This growth rate assumes both continued strength in the private sector and an accommodative monetary policy.

I believe that the Federal Reserve Board will fully cooperate in insuring the Nation's economic recovery because of the fiscal restraint and positive effort to avoid inflation contained in the recommended first concurrent resolution.

Only if we have this coordination between fiscal and monetary policy can we hope to achieve low-interest rates, reduced Federal

deficits, and an economic recovery without new inflation.

It is the Budget Committee's belief, as expressed in its report, that the Federal Board should strive for a real economic growth rate of at least 6 percent. A real growth rate of 7 percent is possible, however, and would be even more satisfactory.

DEFENSE

Mr. President, the committee's recommendation for the national defense priority—function 950 at page 19 in the report—is that we very nearly adopt the recommendation of the President, the Appropriations Committee, and the Armed Services Committee. This will produce a budget which is roughly $4 billion above current policy in budget authority, and about $1 billion below current policy in outlays. This budget will permit a real growth of $9.6 billion in budget authority for defense programs.

I wish to emphasize, however, that making the outlay savings from current policy and achieving the full measure of the real growth depend upon making $5.4 billion in savings which the President has proposed. A portion of these savings can result from administrative actions, but some will require action by Congress in areas such as pay and compensation and stockpile sales. If Congress does not achieve these savings—and the Budget Committee sees no reason why they cannot be achieved if we are prepared to cooperate with the administration on them—then the amount remaining for new initiatives in defense will be reduced.

PHYSICAL RESOURCES

A major initiative proposed by the Budget Committee in the physical resources area is a substantial increase in energy development and conservation funds over the President's recommendation. Senate Resolution 109 contains roughly $1.1 billion in budget authority and $0.8 billion in outlays over the President's recommendation in function 300 for energy related initiatives.

The committee also added $7 billion in budget authority in the same function for continuation of the Environmental Protection Agency's construction grant programs for sewage treatment facilities.

The committee once again found the administration's estimate for receipts from sale of offshore oil leases to be unreasonably high. We have included a figure of $4 billion under offsetting receipts—function 950—instead of $6 billion as proposed by the President. The resulting lower estimate for offsetting receipts means a higher deficit figure, but as last year, the committee felt it necessary to put the most honest possible estimates before the Senate.

HUMAN RESOURCES

As far as individual taxpayers are concerned, the committee's most important initiative in the human resources area is its recommendation against the administration's proposed increase in social security and unemployment insurance taxes. While the President's budget included a personal income tax cut in addition to what we have proposed, virtually all of that tax cut would have been offset next January by these proposed payroll tax increases and by increases already enacted to take effect next January.

Nor does the committee generally recommend taking the savings associated with the President's proposals to consolidate a wide range of human resources programs through block grants to State and local governments. Without wishing to prejudice the debate over the desirability of consolidation, we must be concerned about the impact a reduction in Federal support would have on State and local governments hit hard by inflation and caseloads increased by recession.

With regard to unemployment, the committee rejected the President's proposed termination of public service jobs programs, as I mentioned earlier, because there are still over 7 million Americans out of work. For the same reason, the committee allows for a continuation of extended unemployment benefits.

TRANSITION QUARTER

In addition to setting forth budgetary targets for fiscal year 1977, Senate Concurrent Resolution 109 recommends binding fiscal totals for the transition quarter, July 1 through September 30, 1976.

The recommended totals, which reflect current policy levels, are meant to serve as a second concurrent resolution on the transition quarter.

The decision to delay establishing these totals until this time, as my colleagues will recall, represented a compromise with the House of Representatives during the conference on the second concurrent resolution for fiscal year 1976.

At that time it was agreed that Congress would establish a target-setting first concurrent resolution on the 3-month period simultaneously with the second concurrent resolution for fiscal year 1977. Adoption of binding totals would be postponed until Congress considered the first concurrent resolution for fiscal year 1977.

The Senate conferees' position had been to set binding totals last December.

I ask unanimous consent that section 3 of Senate Concurrent Resolution 109, which sets forth the transition quarter budget totals, be printed in the RECORD at this point.

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

SEC. 3. The Congress hereby determines and declares, in the manner provided in section 310(a) of the Congressional Budget Act of 1974, that for the Transition Quarter beginning on July 1, 1976—

(1) the appropriate level of total budget outlays is $102,200,000,000;

(2) the appropriate level of total new budget authority is $95,800,000,000;

(3) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $16,200,000,000;

(4) the recommended level of Federal revenues is $86,000,000,000; and

(5) the appropriate level of the public debt is $646,200,000,000, and the amount by which the temporary statutory limit on such debt should be accordingly increased is $19,200,000,000.

"CROSSWALK" PROCESS

Mr. MUSKIE. As submitted by the President, the Federal budget is divided into 17 functional categories. Each of these brings together programs that share broad policy objectives—

NATIONAL DEFENSE, HEALTH, INCOME SECURITY, AND SO FORTH

While these functional subdivisions are helpful in comparing and determining broad budgetary priorities, they are not so useful in terms of internal congressional procedures.

In general, the 17 functional categories do not correspond one-to-one to the various subcommittee jurisdictions. This is the case both with the Appropriations Committee and with other committees which consider spending legislation.

To meet this problem, the Budget Act provides a process for reallocating the spending figures contained in the concurrent resolutions on the basis of committee jurisdiction.

This process, known as "crosswalking," takes effect for the first time this year. The statement of managers accompanying the first concurrent resolution conference report must contain an allocation of the spending totals for each committee holding spending jurisdiction. The committees themselves are responsible for subdividing these amounts among their own subcommittees or programs.

The Budget Act requires that the results of the "crosswalk" procedures be reported by each affected committee as soon as practicable after adoption of the concurrent resolution. Only in this way can the Senate have a clear idea of how spending legislation reaching the floor relates to the concurrent resolution targets.

DEBATE THE FOREST, NOT THE TREES

Let me conclude with a word of advice about debating priorities.

As my Budget Committee colleagues know very well, it is easy to slip into discussion of individual programs or line items in the budget. We all have our favorite programs, and areas of special expertise. It is tempting to forget about the broad priority questions and to try to guarantee that our favorites are "in the budget."

In the Budget Committee, we have successfully avoided a line item approach. We have not wanted to trespass on the programatic jurisdiction of the authorizing and appropriating committees. And we have tried to concentrate on our priority setting mission.

We do discuss individual programs. We count on the special expertise of all our Members. But generally we do not vote to include or exclude a given program or even an amount for such a program, except in rare cases where the program is of such magnitude, generally in the hundreds of millions of dollars, as to constitute in itself a significant priority.

As this debate goes forward let us not try to create a legislative history which guarantees the funding of this program but not that program. That work will be done in our other committees and on the floor through the summer.

AMENDMENTS

The Budget Act does contemplate the possibility of amendments to this resolution. It is not written in stone. It is the Budget Committee's considered recommendation to the Senate. The purpose of this debate is to allow the Senate to work its will in creation of an appropriate and comprehensive congressional budget.

The Budget Act provides a few important changes in Senate procedure affecting this debate. As you know, in the creation of the Budget Act, we limited debate on this first budget resolution to 50 hours, with no more than 2 hours allocable to each amendment and no more than 1

hour to amendments to amendments, debatable motions or appeals.

There are also a couple of special rules affecting amendments. Amendments must be germane. In addition, amendments will be in order, even to sections of the legislation which have already been amended, as long as those further amendments propose to change a figure or figures then contained in the resolution so as to make the resolution mathematically consistent or to maintain such consistency.

Mr. President, as I have so often since the Budget Committee began its work 18 months ago, I want to commend my fellow committee members for their diligence, for their hard and successful work in a new field, and for their political courage in coming to grips with the conflicting demands that budgeting always entails.

I particularly commend and thank the Senator from Oklahoma (Mr. BELLMON), whose bipartisan objectivity and support, more than any other single ingredient, have guaranteed our success to date.

So let this debate on national priorities go forward. I am convinced we can achieve a result through compromise of which the Senate can be proud. I am convinced we can achieve a result that will be good for America.

AMENDMENT NO. 1584

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

Mr. LONG. Mr. President, I am submitting an amendment to the congressional budget resolution. This amendment will reflect more realistically the actions which the Congress is likely to take and which the Congress will want to take in connection with federally funded health and income security programs. My amendment does not increase Federal outlays or affect the budget deficit projected by the Budget Committee for fiscal year 1977. My amendment reduced by $1.4 billion the necessary level of budget authority for the year.

The budget resolution, as reported by the Senate Budget Committee assumes that legislation will be enacted to reduce benefits under Social Security Act health and income security programs for needy and aged persons by some $2 billion. I do not believe that this is at all realistic. The Committee on Finance which has jurisdiction over these programs did not, in its March 15 report to the Budget Committee, give that committee any reason to believe that reductions of this magnitude are possible. Certainly it is conceivable that some savings could be effected in provisions which do not seriously undermine our aid to these groups—but there are also many gaps in the protection provided to our needy and aged citizens which the Congress would like to fill if sufficient funds were available. The Finance Committee concluded that there were no grounds for expecting substantial reductions in these programs. We concluded that if some savings can be effected by eliminating low-priority provisions, the Congress will want to spend at least as much as is saved to provide some of the many improvements which are desirable in these programs.

The Budget Committee did not specify what types of cuts it expects the Finance Committee to make in these programs, and I agree that it is not their role to do so. However, the only basis on which I can imagine their having arrived at this recommendation is an assumption that we would enact cuts similar to what the President has proposed in his budget. The President's proposals involve such things as cutting off social security benefits for orphans completing their education, requiring aged and disabled persons to pay more for medical expenses under medicare, or limiting how much doctors or hospitals can be reimbursed for their medicare costs. Now, it may be that the Finance Committee can find ways to improve these programs and to eliminate unnecessary costs over the long run, but I do not believe it is possible to cut out $2 billion in program costs in the coming fiscal year without enacting measures which primarily take benefits away from needy people or which indiscriminately cut payments to doctors or hospitals, and I do not think that Congress wants to or will enact such measures.

In order to stay within the overall fiscal guidelines recommended by the Budget Committee, the amendment I am submitting balances the elimination of these proposed cutbacks by also eliminating some new spending initiatives proposed by the Budget Committee. The resolution, as reported, assumes that legislation will be enacted extending two temporary unemployment programs which are scheduled to expire at or just after the end of this calendar year. These programs were enacted as emergency measures to deal with the particular problems of the recession we have just been through. It was intended when they were enacted that they should phase out and disappear as the levels of unemployment receded. I would hope that the current pattern of declining unemployment rates will continue into next year and that these programs will expire as planned. It does not, in any case, make too much sense to me for us to recommend cutbacks in our permanent programs for needy persons in order to allow room for the extension of temporary programs which may be neither necessary nor appropriate.

My amendment also recommends the elimination of $1 billion allowed by the Budget Committee for a new program of countercyclical aid under the category of community and regional development. I make this proposal with some reluctance. The objective of this program, as I understood it, is to indirectly offset some of the unfortunate effects of the recession by helping hard-pressed local governments to maintain employment and services. While this may be a highly desirable objective, I cannot agree that it is sufficiently desirable to justify funding it by cutting Federal services to needy individuals. I ask unanimous consent to have printed in the RECORD a chart demonstrating how the amendment would work.

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

The Senate Budget Committee report indicates that they assumed the following reductions and increases in the dollar amounts in their recommended first budget resolution:

Reductions

	Billion
Social security	−$0.3
Aid to families with dependent children	−.3
Medicare	−1.1
Medicaid	−.3
Total	−2.0

The Long Amendment to the budget resolution would delete both the $2.0 billion in reductions and also the following $2.0 billion in increases:

Increases

	Billion
Extension of unemployment benefits beyond 39 weeks	+$1.0
Countercyclical revenue sharing	+ 1.0
Total	+ 2.0

It would thus not change either the expenditure total or the deficit figure in the Budget Committee recommendation.

Mr. LONG. Mr. President, this does not change the overall budget figure, but I believe it makes more possible achieving the overall objectives of the budget resolution. I do not believe that Congress is going to vote to reduce social security, aid to families with dependent children, medicare, and medicaid expenditures by $2 billion. Recognizing that that is not realistic at all, it seems to me that it would be far more practical not to plan to do that and to make reductions elsewhere in that budget resolution.

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

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

AMENDMENT NO. 1584

In clause (2) of section 1, strike out "$454,900,000,000" and insert in lieu thereof "$453,500,000,000";

In clause (7)(A) of section 2, strike out "$7,400,000,000" and insert in lieu thereof "$6,400,000,000";

In clause (7)(B) of section 2, strike out "$7,600,000,000" and insert in lieu thereof "$6,600,000,000";

In clause (9)(A) of section 2, strike out "$40,400,000,000" and insert in lieu thereof "$40,700,000,000";

In clause (9)(B) of section 2, strike out "$37,600,000,000" and insert in lieu thereof "$39,000,000,000";

In clause (10)(A) of section 2, strike out "$163,700,000,000" and insert in lieu thereof "$163,000,000,000"; and

In clause (10)(B) of section 2, strike out "$140,100,000,000"and insert in lieu thereof "$139,700,000,000".

Mr. MUSKIE. Mr. President, I yield to my good friend, the distinguished Senator from Kansas (Mr. DOLE), who is representing the minority this evening, and then to the distinguished Senator from Utah (Mr. Moss) who has been such a staunch supporter in the Committee on the Budget throughout this past year and during the consideration of this concurrent resolution.

Mr. DOLE. Mr. President, the ranking Republican member, the distinguished Senator from Oklahoma (Mr. BELLMON) is unavoidably out of town and will make his opening remarks tomorrow.

Mr. President, the Senator from Kan-

sas will support the budget resolution as reported by the Budget Committee. I would point out several features of that resolution which make it worthy of the support of my colleagues in the Senate.

First, total outlays recommended by the Budget Committee are $412.6 billion. Not counting changes in allowances and undistributed offsetting receipts, this is $9.4 billion less than estimated current policy outlays.

In all but two functional categories of the budget—natural resources, energy, and environment—300—and education, training, employment, and social services—500—recommended outlays are equal to or less than current policy. Even in the national defense function outlays are reduced because the assumed savings from manpower and efficiency measures more than offset first year outlays for increased weapons procurement.

If adopted and followed, these targets would exert a good deal of pressure on Congress to find ways to provide important Government services more efficiently, at less cost to the taxpayer. The Budget Committee has taken seriously its responsibility to impose real but realistic discipline on the total Federal budget.

The Senator from Kansas is one of many who would like to see greater restraint on Government spending. There are, however, at least two related factors which limit the degree of budgetary restraint that can reasonably be asked for in fiscal year 1977. First, this will be only the second year of operation of this process. As a Budget Committee member, I realize that some time is required for the Congress to become accustomed to and fully responsive to the operation of and limitations imposed by this new budget process.

A second and related reason is that sufficiently numerous and well-documented options for decreasing spending in all functional areas of the budget were not available to the Budget Committee.

The Budget Committee is understandably reluctant to recommend—implicitly—in its budget targets actions of a kind that have not been contemplated and received at least preliminary consideration by the jurisdictional committees of Congress. In preparation for the first concurrent resolution for fiscal year 1977, the March 15 reports to the Budget Committee by the authorizing committees presented options and recommendations which involved, with very few exceptions, spending above the current policy level. Options for reducing spending were forthcoming almost exclusivey from the administration in its budget recommendations. Both for political reasons and for lack of opportunity or inclination, the appropriate congressional committees did not fully examine these proposals. The ability of the Budget Committee to act on these budget reducing recommendations was therefore severely limited.

The Appropriations Committee provided some options for budget restraints. Those recommendations could cover only those programs for which funds are subject to the appropriations process, however. This excludes programs which involve a legal entitlement to benefits from the Government, for which spending is therefore "uncontrollable" under existing law, and which are subject only to the control of the authorizing committees.

The effectiveness of the budget process will be greatly enhanced if this imbalance is redressed. This will require conscientious and thorough evaluation of all existing programs. Several bills have been introduced which would require such periodic reexamination. Congress must carefully consider these proposals and subsequently enact strong oversight requirements if the budgetary control potential of the budget process is to be fully realized.

Second, the committee's recommendation of a $50.2 billion budget deficit represents significant progress toward Federal budget balance. At the same time, it represents a prudently moderate fiscal policy.

The budget deficit is still much larger than most of my colleagues find acceptable. I share that concern. But a budget deficit is virtually unavoidable in the event of a serious recession, and we are still a considerable distance from full economic recovery. I would point out that in December the Senate approved a budget deficit of $75 billion for fiscal year 1976. We did so with the expectation that allowing such a deficit would cushion the effects of recession and encourage economic recovery. We did so in anticipation of approving a reduced deficit for the next fiscal year. The $50.2 billion deficit recommended by the Budget Committee represents a significant and responsible reduction in the Federal deficit. The economy is clearly on the road to full recovery and the budget is on track toward budget balance. Based on the trends begun last year and reinforced by this budget, I believe that the dual goals of full economic recovery and a balanced budget are attainable no later than fiscal year 1977.

Third, the Budget Committee's recommendation represents admirable resistance to the temptation to try to push economic recovery too fast. The national unemployment rate will still be higher than anyone likes in 1977. The Budget Committee gave consideration to a variety of proposals to eliminate this problem more quickly. It has allowed for and recommended continuation of public service employment at the current policy level. It has allowed for countercyclical fiscal assistance to hard-pressed States and localities. But it has not recommended sweeping public works or public service employment programs. I concur strongly in the wisdom of this judgment. In a variety of ways, such programs raise more problems than they solve. They tend to trade some gains now for a lot of problems later. I concur in the judgment implicit in the committee's recommendation to rely mainly on the private sector—which is now recovering strongly—for productive and permanent jobs for those now unemployed. I would urge that private firms be assisted in this effort by means of the unemployment tax credit proposed in the Employment Assistance Act introduced by the Senator from Kansas last week.

Fourth, I support the expression of national priorities represented by the distribution of spending within the functional categories. One can debate at length and to no avail the relative military strengths of the United States and the Soviet Union. It is clear, however, that while the United States has been decreasing its efforts in the area of national defense, the Soviets have redoubled theirs. Now is an appropriate time to moderate this trend. I am convinced that our military experts have presented us with a proposal which requests no more than is needed to maintain a strong nuclear deterrent and a flexible conventional response capability that allows a high nuclear threshold. The substantial increase in budget authority is needed in order to procure the military equipment that is essential to this capability in the coming years. I am similarly convinced that there is nowhere in this defense budget any allowance for so-called "cut insurance."

The other budget categories for which the committee has recommended spending above current policy are natural resources, energy, and environment—300 and education, training, employment, and social services—500. These increases reflect our Nation's need for adequate and secure supplies of energy and economic circumstances that warrant emphasis on a better utilization of our labor resources.

The Senator from Kansas will give careful consideration to any amendments that are proposed to the committee's recommended budget targets. I would expect to oppose, however, any substantial increase in total outlays. If any of my colleagues feel that more spending should be allocated to certain functions, I urge him to propose a corresponding decrease in some other functions. If the committee has misjudged the Nation's priorities, then perhaps spending should be shifted among the budget functions. But I am convinced that the budget total should exert a good measure of budgetary restraint and will therefore be reluctant to vote for any amendment to increase the total of Government spending for fiscal year 1977.

I would remind my colleagues that the budget resolution does not set program-by-program spending amounts.

The process by which the Budget Committee arrives at its target recommendations for functional categories is subject to some misunderstanding. The discussion of programs contained within a function—with regard to purposes, effectiveness, and costs—is an essential aid to committee members in determining what total budget commitment to that function is appropriate in light of the priorities they wish to reflect. However, the specifics of those program discussions are in no way binding on committee members or on the Senate. Subsequent to adoption of the budget resolution, it will at times be appropriate for Members to point out that in light of the established target for the relevant budget functions, approval of legislation being considered would require either

offsetting cost reductions in subsequent legislation or exceeding those targets. It is not appropriate, however, to maintain that the target recommended by the Budget Committee and subsequently adopted or amended by Congress, together with the attendant discussion and debate, mandates or requires a specific limit on funding for that individual legislation.

Therefore, the spending targets set in this budget resolution will not preclude funding for any specific programs or legislation.

Similarly, amendments to those recommended targets will not assure funding amounts for any specific programs or legislation. Rather, it is the function of the budget resolution to provide guidance as to the total cost of all legislative actions within functions and for the entire budget. The Senator from Kansas urges his colleagues to approve a budget resolution whose guidance provides a reasonable degree of budgetary restraint and discipline. I believe that the targets recommended by the Budget Committee constitute such a budget.

Mr. BEALL. Mr. President, I thank the distinguished chairman of the budget committee and wish to speak briefly in support of Senate Concurrent Resolution 109, the first concurrent resolution on the budget for fiscal year 1977 and the transition quarter. First I would like to add my word of commendation to the chairman and the ranking minority member for the direction, dedication, and sincere effort which they have made toward making the new budget process both meaningful and successful. Both deserve the appreciation of the Senate for their tireless efforts in this regard.

Mr. President, I support the first concurrent resolution on the budget for fiscal 1977, not because I necessarily agree with the ceilings imposed on all of the functional categories, nor necessarily because I agree with the relative priorities imposed by this resolution. I am sure that all of us on the budget committee, if given our preferences, would have come up with a different set of numbers and perhaps even a different total, in terms of outlays and the size of the deficit. I support the first concurrent resolution, Mr. President, primarily because of what it accomplishes and what it recognizes. The first resolution accomplishes a degree of fiscal constraint and discipline which I firmly believe we would never have accomplished without the budgetary process. One only needs to look at the total recommendations of the authorizing committees to see that we would have exceeded our mark in Senate Concurrent Resolution 109 by nearly $30 billion in both budget authority and outlays if we had followed their suggestions. This is the way we used to do things, and this seems to me to be one important way of measuring the success of the Budget Committees efforts now. It is because of this lack of central control and direction in the budgetary process that the Congress passed the Congressional Budget and Impoundment and Control Act in the first place.

In addition, Mr. President, I believe that the Budget Committee has recognized legislative reality in arriving at its figures. While the President's budget has some laudable goals and worthwhile suggestions, his budget amount, for our purposes, is unrealistic because of the large number of changes in existing law that would be needed to reach his figures.

I am sure each of us would like to see increases in one or more functional areas where we have program preferences. I strongly believe that we must maintain a strong defense and am happy that only minor reductions were made in this category. I give health and education a high priority and these categories received relatively generous treatment. Many of my colleagues feel that we have perhaps short-changed the American public by failing to increase the number of public service jobs. From my own standpoint, Mr. President, all the economic indicators and evidence suggest that a fairly strong recovery is underway in the private sector, and with that being the case, I would like to see a reemphasis away from broad-based public service and public works programs and greater concentration in the Federal budget on job-creating projects in existing pockets of relatively high unemployment. I am concerned about an unemployment rate that is still at 7.5 percent, but I recognize that that unemployment rate is dropping. I am also concerned about the threat of increased inflation, for my memory is not so short as to forget the ravages imposed upon our economy not that long ago by the problems of double-digit inflation. Senate Concurrent Resolution 109 does not guarantee a full employment economy in fiscal 1977, but it does allow for an improved employment situation over 1976; it does recognize the economic dangers of high inflation and high interest rates; and it does provide for sufficient legislative leeway in the budget to concentrate Federal employment programs on lingering areas of high unemployment.

The Members of the Senate should not forget in their haste to provide all things to all people in a short period of time, just why the Budget Committee and the budget process was created. The budget process exists to maintain spending controls, to set spending priorities, and to establish and maintain economic growth, low unemployment, and stable prices. I believe, Mr. President, that the budget for fiscal 1976, and the proposed budget for fiscal 1977, are accomplishing our economic goals. Perhaps all of these goals are not being reached as rapidly in some areas as we would like, but I think we risk dangers in other economic areas if we try to move faster. Senate Concurrent Resolution 109 does set spending priorities, which as I mentioned do not satisfy everyone in all areas. But how can any budget which accomplishes the first goal, namely to maintain spending controls, ever do that? This budget process was never intended to be politically popular, it was intended to make the Congress fiscally and economically responsible.

I would like to stress that my support of this resolution before us today should in no way be construed as a total endorsement of our new budgetary process as it currently exists. All of us recognize that it has shortcomings, and in the future these shortcomings must be improved. In the remaining time that I have, Mr. President, I wish to address myself to a couple of these concerns. One of the biggest problems that the Government has in budgetary management are programs, introduced years ago, which have not been subjected to periodic evaluation and which have grown well beyond the intent and purview of the initial legislation. Often these are in the nature of entitlement programs, but this is not always the case. Regardless, if one is going to be serious about the notion of fiscal responsibility, then control must be exercised over the degree and the extent of long-run expenditure commitments. For example, we have a food stamp program which has grown with little knowledge as to the future costs, degree of participation, nature, and qualifications of participants, and so forth. We have medicare/medicaid programs which have precipitated higher per unit costs, higher than anticipated degrees of utilization, and an astronomical growth in overall program costs. We have a social security program which is an actuarial nightmare, a program which we frequently are told is threatened by bankruptcy unless continually higher taxes are levied to support it. If any organization other than the Federal Government had precipitated these sorts of budgetary uncontrollables, they would be financially insolvent. In short, our new budgetary process must ultimately move toward the imposition of timing limitations on all expenditure programs, perhaps ultimately to zero-based budgeting, thereby forcing congressional evaluation and reevaluation of programs from time to time on an orderly basis.

In a similar vein, timing limitations and systematic program evaluation must be imposed upon tax expenditures through the congressional budgetary process. Tinkering with the tax system has become an increasingly favored ploy, the notion of giving something to one's constituents for nothing. In fact, what we have seen in the past are tax expenditures growing at a faster rate over the past decade than have Federal outlays. I addressed myself to this particular matter in my comments to this body during floor debate on the second concurrent resolution for the fiscal 1976 budget.

Fiscal responsibility mandates not only systematic control over expenditures, but a systematic control over revenues as well. There is no reason why the basic tax rate structure needs to have a built-in obsolescence clause, but certainly tax expenditure items should be subject to the same sort of timing limitations as are direct expenditures. Nothing is more permanent in the tax code than items which have been put in on a temporary basis. These so-called temporary items work their way into the tax code with no limitations as to their temporary nature. Special interest constituencies grow up around these tax privileges so that it becomes difficult to remove such measures from the tax code. There are, Mr. President, precedents for imposing timing limitations of a zero-budgeting nature on tax expenditure

items. For example, a number of rapid amortization provisions have been written into the tax code with 5- and 6-year limitations. The extension of the investment tax credit at the 10 percent level, as recently passed by the Congress, has a built-in expiration date of 1979.

In short, Mr. President, budgetary control is a two-way street. We need better control on expenditures and we need better control on our revenue losses. Anything short of this will ultimately lead to a failure of the recenty created budgetary process, and more seriously, failure of the ability of Congress to come to grips with matters of fiscal control and central economic direction.

Mr. DOMENICI. Mr. President, during the 15 months or so that I have been a member of the Senate Budget Committee under the skillful leadership of our chairman and ranking minority member, I have come to understand that the budget process is a system for distributing the pain of limited resources in such a way as to hurt every part but destroy no vital organ of the body politic.

During my remarks, I will address the critical issue of priorities. It is, unfortunately, true that the setting of priorities is meaningful only when it is recognized that needs and desires greatly exceed the resources available.

The great, but finite, pool of resources we call the gross national product must provide for human consumption, for private sector investment and for the support of the Federal Government and State and local governments. In the short run, the size of the GNP pie is not influenced by the way in which it is divided, but failure to adequately replenish our stock of capital goods will reduce the size of future GNP pies. There are no easy choices and no absolute certainties in setting priorities, but, since the pie is limited in size, hard choices must be made.

The budget resolution reflects the considered judgment of the Senate Budget Committee arrived at by that process of conciliation and compromise which is the genius of our legislative system. The result fully satisfies no one but is better than a result which satisfies a few and is unacceptable to many.

The $412.6 billion burden of tax revenue and deficit recommended in this resolution represents the basic priority judgment of the Budget Committee as to the share of the GNP which, under all present conditions, should be devoted to Federal purposes.

As a personal matter, I would have preferred a deficit smaller than the $50.2 billion contained in this resolution; I would also have preferred a less burdensome tax load. The problem is that it was not possible to achieve majority agreement on a pattern of spending which could be accommodated by a lower deficit and a lower tax load. Some members of the committee believed that a higher deficit number could be justified in the interest of more stimulation for the economy or heavier funding of some programs. The authorizing committees recommended $30 billion more in budget authority and almost $30 billion more in outlays than the Budget Committee recommends; we had to trim those requests as we made priority decisions.

I believe that the resolution continues us on a path which will allow the Federal budget to be balanced by fiscal 1979 without substantial risk to economic stability. In some functions, the pattern of budget authority is constrained so as to increase congressional control over expenditures in future years.

The proposed level of spending and deficit is, in my opinion, within the range that will promote justified business and consumer confidence without unduly risking a substantial rise in inflation-causing expectations. These psychological factors are of enormous significance in making priority judgments.

The defense budget reflected in the committee's recommendation is a good example of prioritization, both within the function and relative to other functions. Real growth in the function reflects a determination to strengthen the country's defense posture with heavy emphasis on procurement and on research and development.

To partially accommodate the needed level of procurement and R. & D., the priorities within the defense function itself will need to be shifted. Congressional action to authorize increased stockpile sales is assumed in the totals as is action to eliminate the 1-percent "kicker" in retired pay and to modify Federal wage board pay levels. The provision for the defense function also recognizes the need for administrative restructuring of pay schedules for all agencies in accordance with revised comparisons between Federal and non-Federal compensation. It is assumed that Congress will not overturn the President's proposed 5-percent ceiling and 3-percent floor on pay raises, that numerous proposed legislative initiatives will be enacted and that the moderations in program growth proposed by the President will be achieved.

The provision for energy is substantially greater than the level recommended by the President or the level indicated by current policy. This committee recommendation reflects a priority judgment particularly in that the totals will accommodate increased resources for nonnuclear energy R. & D. and for conservation. The funding levels for energy also provide for initiating the strategic petroleum reserve program mandated by the Energy Policy and Conservation Act. The committee's recommendation in the natural resources, environment, and energy function will also permit completion of improvements to uranium enrichment facilities, but may not permit additional Government-owned enrichment capacity.

The resolution provides amounts sufficient to maintain the current level of public service jobs and to continue present unemployment benefit programs. The provision for unemployment benefits and public service jobs has the advantage of relating to programs which are "triggered" downward as economic conditions improve, thereby minimizing the risk of overstimulating the economy. The sensitivity of outlays and budget authority to changes in the economy is well illustrated by the $3 billion downward adjustment in budget levels made by the committee on the basis of recent, but previously unanticipated, improvement in unemployment, inflation, and other factors.

With respect to health, the funding levels assume the enactment of substantive legislation to constrain the 20 percent rate of increase in medicare outlays indicated by current policy and to curtail the rapid escalation in medicaid outlays. The budget authority and outlays recommended for the health function allow for maintenance of current policy levels in the other health programs and provide an additional $0.1 billion in budget authority and outlays for further growth in health research and $0.1 billion in outlays to provide for the proposed nationwide swine flu vaccination program.

While the committee recommendations do not directly address social security funding problems, it is my hope that this session of Congress will act upon the "decoupling" issue and begin the development of a financing plan which will insure the integrity of the social security system in the next century. It now appears probable that the social security trust fund reserves, while reduced in amount, will be adequate to maintain the system well into the 1980's without the immediate enactment of increased payroll tax rates.

The amounts in this budget resolution are sufficient to maintain the total level of State-local support above present levels. It is my hope that the issue of increasing block grants and reducing categorical aid programs will receive the careful consideration of substantive committees, unencumbered by the prospect of reduced funding levels, and that attention will be given to differentiating between programs which should be wholly federally funded and administered and programs which should be funded and administered at the State and local level.

In addition to the substantive matters I have previously mentioned, the budget resolution and its accompanying report implicitly and explicitly assume numerous legislative initiatives having substantial budgetary impact. It is to be hoped that these substantive matters receive the most careful consideration since it is only by the coordination of budgetary and substantive effort that an appropriate fiscal policy can be developed for the future.

In conclusion, I state my support for the resolution in the form it was reported by the Budget Committee. As I mentioned earlier, my individual preference would have been for some redistribution of the pain implicit in the priority choices but I am, nonetheless, convinced that the fiscal policy underlying the resolution is, on balance, appropriate for the economy and for the people of this great country who look to Government and the private sector for stability in their lives.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Lewis Ashley of the staff of the Committee on the Budget be granted privileges of the floor during

debate and votes on the congressional budget resolution.

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

FIRST CONCURRENT RESOLUTION OF THE FISCAL 1977 BUDGET

Mr. MOSS. Mr. President, I rise in support of the first concurrent budget resolution. Before addressing the report, I wish to pay tribute to our distinguished chairman, Senator MUSKIE, from Maine; the ranking Republican member, Senator BELLMON, from Oklahoma, and other members of the Budget Committee who have worked so diligently for several months on this resolution before the Senate for consideration today. The leadership exhibited by our chairman and our ranking Republican member has been outstanding. We also enjoyed the support of a superb staff who has shown both competence and dedication. I also want to commend the Congressional Budget Office—CBO. Under Dr. Rivlin's leadership, the CBO, in a relatively short time, has developed into an impressive organization whose expertise and capabilities we in the Congress have come to rely upon for critical analysis and valuable input to the budget process.

Now turning to the resolution (S. Con. Res. 109). I believe this is one of the most important pieces of legislation that the 94th Congress will be asked to vote on. After all, the budget is the most important policy document which the Congress considers each year. It is a document that will affect every American in some way.

Congress, of course, can accept the administration's view if it wishes and enact the administration's budget as proposed. However, there are clearly other choices and I think it is important that the new budget process better enables Congress to consider them. There is no magic number, no obvious, single answer to matters as comprehensive and far reaching as those raised by the Nation's budget.

Our initial budget reform efforts last year, were better than we had a right to expect. But it is apparent that we need to continue to improve if we are going to bring the Federal budget under the control required.

If we can straighten out the economy, everyone can share in the achievements. But if we fail, it represents a failure for the Nation.

Last year, in enacting the fiscal 1976 budget—the first under the new budget process—Congress asserted its own priorities and adopted an overall budget which differed significantly from that proposed by the administration. That budget expended the President's proposed tax reduction, altered the administration's priorities in order to channel an additional $4.5 billion into antirecession programs, and deferred new, long-range programs in favor of short-range programs that would help stimulate employment and ease the burden of the reession on those most affected by it.

The economic situation of the last several months has demonstrated the wisdom of the fiscal policies that Congress adopted with the 1976 budget. These policies together with Congress rejection of instant decontrol of oil prices, contributed to an increase in income, a reduction in unemployment and inflation, and started the economy moving toward recovery.

The fiscal 1977 budget, which the committee now recommends, is designed to continue the recovery without accelerating inflation. This resolution sets targets to guide the work of the Congress as it considers spending and revenue legislation for the coming year. Adoption of this first resolution will mark yet another key step in affirming congressional control over the Federal budget which is long overdue. The second resolution which must be adopted by September 15, will set binding ceilings on spending and a floor on revenues. This year, for the first time, Congress will vote not only on budget totals but on figures for each budget function. These functional totals, in general, are intended to represent broad priorities and not to imply judgments as to the exact mix of programs which the authorizing and appropriations committees may wish to include within the established targets.

In developing this resolution, the committee again adopted priorities which differ from those of the administration; although, the pattern of spending does not differ substantially in defense. The committee felt that the interests of the people in the United States will best be served during fiscal 1977 by a budget which:

Continues the economic recovery;

Avoids actions that will increase the rate of inflation;

Maintains antirecession programs and Federal support for health, education, and other social services at or near current policy levels;

Permits real growth in defense spending to maintain a strong national defense, and to assure that "the U.S. determination to protect the interests of its own people and its allies" are not misread; and

"Accelerates research on new sources of energy," increases "conservation" efforts, and promotes the development of present "domestic energy resources."

How the resolution proposes to do this can be illustrated by highlighting some of its key features. The resolution—

Provides fiscal recommendations consistent with a real economic growth rate of 6 percent. This is a higher growth rate than the President's budget would yield and one that would assure a continued reduction in the unemployment rate without aggravating inflationary pressures.

Recommends extension of the 1975 tax reductions. Extension of the tax cut will increase consumer income and offset the loss of purchasing power, stimulate business activity, and reduce unemployment.

Recommends enactment of legislation which would result in a net increase of $2 billion in fiscal year 1977 revenues by changing existing tax expenditures provisions. Incidentally, this year, for the first time, the tax expenditures budget is published as part of this report. The estimated revenue losses associated with these provisions total more than $105 billion for fiscal 1977. It is essential that the growth of both tax expenditures and direct spending programs be subject to the same standards of review, if the new budget process is to have a positive effect over the total Federal budget.

Recommends against any increase in social security and unemployment taxes not already mandated by existing law. The tax increase proposed by the administration would lead to about a one-half percent increase in prices and nearly that much in inflation in 1977. It would also pose new problems to an economy which is still recovering

Proposes an economic policy that will provide 175,000 more summer youth jobs, and, by the end of 1977, will provide 750,000 more adult jobs than the President's economic policy. And rejects the President's proposal for phasing out public service jobs in 1977 while unemployment is still expected to be above 6 percent.

Provides for future energy needs by funding programs of research, conservation development, and demonstration, and supports of energy price and safety regulatory efforts. Energy should rightfully be accorded high priority. And the committee's proposal for energy programs reflects an increase over the President's budget request. This is aimed not only to increase domestic production, but to do more in the conservation of our precious energy resources.

Provides important support for State and local governments, such as:

Revenue sharing at $6.6 billion for fiscal 1977 which is equal to current policy estimates; but which constitute a slowing of the rate of growth of Federal assistance dollars to State and local governments; and

One billion dollars for countercyclical revenue sharing—although modest, this continues a significant innovation in Federal policy to counter the impact on State and local levels emanating from the downturn of 1974 and 1975. This countercyclical assistance is timed and targeted to contribute to coordinated, built-in stabilization across the public sector.

In order to attain these goals, the committee recommends a spending ceiling target of $412.6 billion for fiscal 1977. This—

Represents a cut of over $30 billion from the spending proposals the Budget Committee received from the authorizing committees of the Senate; and

Is nearly $9 billion below what would be spent by merely extending through 1977 the same policies and laws contemplated last year in adopting the fiscal 1976 second concurrent budget resolution last December.

Using comparable assumptions and estimates, the deficit resulting from this spending ceiling does not differ substantially from that projected by the President. The Budget Committee's estimates are not only more current, but I believe they are also more realistic as last year's experience proved. While a $50 billion deficit is high, it represents a significant reduction from this year's $76 billion deficit. And it is clear that it would have been much larger but for the new budget process and the discipline it implies.

The economy has been turned around in the last year. The Nation's jobless rate has fallen from 8.5 to 7.5 percent during the past 12 months. There has been an increase in employment of 2,671,000 and a decrease in unemployment of 750,000. Despite continued progress, however, increased employment remains a matter of priority. Inflation has also improved. Prices have diminished from a high of over 12 percent in 1974 to a CPI of nearly half that—about 6.3—in the 12 months ending in February 1976.

But despite the improvements, it is clear that we have not regained economic prosperity. Thus, the Federal deficit is again due to the revenue losses and to increased costs of recession-related programs; for example, unemployment insurance and food stamps. So, economic recovery is essential to balancing the budget. And avoiding a resurgence of rapid inflation is crucial to further recovery. The recommended fiscal policy in this budget is designed accordingly.

This resolution does not correct all of our budget problems, which have accumulated over many years. But it continues the strong beginning the Congress made last year. Living within the ceiling in this year's budget will pinch. But I believe it is necessary.

Some of our colleagues have advocated a higher level of budget expenditures, and more deficit spending. Others, including myself, have argued in favor of greater fiscal restraint and reducing the deficit. This resolution represents something in between the many differing points of view. In my own case, I would have preferred a lower spending level and a smaller deficit. Even in the functional areas, my preference would have been more in some and less in others. But this resolution like others does not reflect the complete views of any single member of the committee. However, it is a rational, responsible, and responsive product. And I believe that it represents another major step in bringing the Federal budget under effective control and establishing realistic priorities consistent with the Nation's current and prospective needs.

This year's performance is certainly crucial to the continued success of the congressional budget process.

Accordingly, I urge my colleagues to support this resolution which is now before us.

I yield the floor.

Mr. MUSKIE. I thank the Senator for his extremely thoughtful statement. I think it is a very useful part of the RECORD. I appreciate especially his reaffirmed commitment to the process which involved so much of his time and mine.

Mr. MAGNUSON. Mr. President, the Senate has before it Senate Concurrent Resolution 109, the first concurrent resolution on the budget for fiscal 1977. This resolution was reported by a near unanimous vote of the Budget Committee, of which I am a member.

Last year when the Senate approved the first budget resolution to be considered under the new budget process, I commented that I had long felt that some reform in the way we considered the Federal budget was necessary. I further added that while I could not be certain this particular procedure offered the best possible solution, I nonetheless felt it was incumbent upon all of us to do what we could to make it work. I concluded that I had seen nothing yet that convinced me that the selected procedure could not work.

Now, looking back on 1 full year's experience with the budget process established by the Budget Impoundment and Control Act, I believe my earlier comments still apply. I think our first year's experience has to be considered a success. Thanks to the able leadership of Chairman MUSKIE, and to the supportive attitude demonstrated by a large majority of Members on both sides of the aisle, the Senate has amply demonstrated that improved budgetary discipline is an idea whose time has come. The Congress may well decide to change some aspects of the new budget process, but after 1 year's experience I still can say that I have seen nothing that convinces me that the basic approach embodied in the new budget procedure was wrong.

This budget resolution was voted out of committee by an overwhelming 13 to 2 vote. I would hope that my vote, cast with the majority, would be regarded as evidence of my continued support for the new budget process, and for the Budget Committee and its able leadership. I would hope that it would not be mistaken as a vote in favor of each and every target or the recommendations they imply. While I support the majority of the fiscal targets in the resolution, I do not agree with all of them.

My major concern is that the resolution is too cautious. It shies away from providing the fiscal stimulus required for a speedy economic recovery. By the committee staff's estimate, the budget proposed by this resolution would result in real economic growth of only 6 percent in fiscal year 1977. This is better than the administration's budget would have provided, but it is not good enough. I agree heartily with Senator HUMPHREY and the Joint Economic Committee that we should be shooting for a real growth rate of 7 percent or more. I would provide the extra stimulus to achieve this faster growth rate by spending to put people to work—directly through more public service jobs, and indirectly through accelerated investments in needed public works projects. I can think of no higher priority for the next fiscal year than that of providing jobs for the unemployed.

With regard to other budget priorities, the resolution is adequate in some areas and inadequate in others. I am pleased to say that the spending targets proposed for many of the human resources programs—such as the controllable health and education programs—should prove adequate to satisfy next year's requirements. For others, however, the targets are too low. One example is the target of $7.4 billion for function 450, community and regional development. This is fully $800 million less than would be necessary just for a simple extension of current policy toward the programs in this function. Such a shortfall in funding could fail heavily on some agencies, such as the community services administration, which already are laboring under comparatively tight budgetary constraints.

Finally, I believe it is worth recalling that the job of the Committee on the Budget is to report to the Senate for its consideration, total spending, revenue and deficit levels, with the overall spending target broken down into subtotals corresponding to certain broad categorical functions. The committee has done its job, and now the full Senate has an opportunity to debate the resolution and amend the figures if it so desires. I expect there will be amendments offered to alter the targets in this resolution. I do not intend to offer any myself, but I do intend to support those that would remedy the types of shortcomings I have pointed out.

Once the first concurrent resolution has been approved by both Houses of Congress, it will provide spending targets which subsequent spending legislation should honor if possible. The functional targets and the report language together carry certain recommendations on such matters as program expansion and contraction, and the need for program reforms to produce greater efficiency. I believe such recommendations serve a valuable purpose in bringing to the attention of the Senate the continuing need for critical analysis of the way in which we spend the taxpayers' money.

I encourage the individual committees which have the appropriate jurisdictional responsibilities to give such recommendations their full consideration, for under the Budget Act, the primary responsibility for deciding whether these recommendations should be enacted is left to them, as it should be. The first concurrent resolution contains only broad budget targets. It is the committees with actual jurisdiction over the spending and revenue legislation that must recommend to the Senate exactly how the budget should be constructed and how scarce funds should be distributed among specific programs.

I urge my colleagues to regard this resolution and the priority recommendations it embodies with the seriousness and attention they warrant. While it is not possible for us to foresee emergencies or to predict with certainty the direction the economy will take in the coming months, I believe when this first concurrent resolution leaves this Chamber it should represent our best judgments on the fiscal policy and spending priorities appropriate for fiscal 1977. If these judgments prove wrong as we proceed through the authorizing and appropriations processes, then we will have an opportunity to alter the budget targets in the second concurrent resolution next fall.

Mr. BIDEN. Mr. President, this is truly an important moment. Today we begin consideration of a congressional budget for the second year—and I emphasize second. When the Congressional Budget Act of 1974 was adopted, I am sure that no one foresaw that it would be implemented so fully and so quickly. This fast

pace indicates the willingness of Congress to exercise fiscal self-control.

Certainly a large share of the credit goes to the Budget Committee chairman, Senator MUSKIE. His combination of hard work and thoughtful deliberation have had much to do with the success of the budget process here in the Senate. He has understood the importance not only of setting budget targets but also of living within them after they are set.

To the extent that the budget process has worked, and will continue to work, great credit is also due to the assistance that the Committee on the Budget has received from the other committees of the Senate. These committees are the program experts. Without their analysis and advice, no reasonable budget product would have been possible.

So far, I think the Senate has a right to be pleased with the progress that has been made during the 1976 fiscal year. As Senator MUSKIE pointed out on the floor on Monday, we are approaching the level of spending set in the second concurrent resolution. I find it encouraging that we are still within those targets despite a further rise in uncontrollable spending.

Because we are close to the spending ceilings, we may have to make some hard decisions in the days ahead. It may be that spending bills for worthwhile programs will threaten to push us beyond the targets we have set. Obviously I do not know what our decisions will be. The important thing is that there will have to be deliberate, conscious decisions. We cannot, as in the past, slide silently into more spending.

In spite of our successes in 1976, it is far too early to assume that all is well. Each year presents new budget issues to be dealt with—and the 1977 budget is no exception. Our first effort to settle those issues will take place here on the floor of the Senate in the next few days. When we are finished, some Members will be pleased—others will not.

When the debate is over, I hope it will be possible for a large majority to be able to support some reasonable targets. It is important to have a good budget. But in these early years, it is important to uphold the process and give it a chance to work. We can work out our differences between now and the time of the second concurrent resolution in the fall. But it is vital that we give the process a chance to work—because without it there is no hope for ever controlling spending.

We on the Budget Committees, as well as all Members of Congress, still have to learn to do this better. We cannot lapse into complacency. We need better information and techniques to permit us to grapple with spending priorities in a more reasoned way than is now possible. I am sure that we have much more to learn about the budget control process after the targets are set. We must try to deal more effectively with tax expenditure issues.

It is encouraging that we have gone through the budget cycle once and started again. However, we should be realistic about all that remains to be done. Because the process is still young and imperfect, it needs our support. I hope it will receive that support here on the Senate floor.

Mr. McCLURE. Will the Senator yield?

Mr. MUSKIE. I am happy to yield to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, amid the hoopla surrounding the celebration of the 200th birthday of our Nation, little attention has been given to yet another birthday—more modest, but yet significant. The economic recovery is today 1 year old. The budget resolution reflects an assessment of that year of progress and also the committee's anticipation for the potential of that progress to continue.

Some will say that the current budget and its associated deficit are not large enough nor do they stimulate the economy sufficiently to bring us back completely and quickly to a position of "full employment." Others, to include the President and myself, would prefer to see a somewhat slower rate of growth which would result in sustainable and noninflationary progress.

We do, however, share at least one goal in common. That is, we each recognize that at some point, the Federal deficit must be reduced and the budget must come to balance prior to the achievement of full employment, be that in 1979 or 1980. The reduction and the eventual elimination of the annual deficit is a joint project in which we all share but in which the Budget Committee must take the lead. The task of deficit reduction can be accomplished only in the face of rising Federal revenues produced by real economic progress in combination with a concerted and studied effort to reduce the rate of growth of Federal spending in any number of areas within the budget.

The task of expenditure reduction cannot be accomplished quickly. It must be accomplished gradually and equitably. The majority of the committee appears to believe that deficit reduction can be most effectively achieved by high levels of expenditure which appear to cause the economy to grow rapidly. They argue that most people will secure jobs, earn higher incomes, pay increased taxes and, in so doing, augment corporate profits and cash flows. This process in and of itself they claim will produce a form of self liquidation with respect to the deficit. In fact, they insist that it will produce a surplus or a fiscal dividend which can then be utilized to reduce taxes or alternatively to increase Federal spending in certain areas or provide the basis for new legislative initiatives such as national health insurance and other priorities with which we are all familiar.

In short, their theory is that if it were possible to wave a magic wand and produce full employment overnight, taxes could be reduced, the Federal budget would be balanced, and the deficit would disappear. It is an intriguing but misleading approach to fiscal discipline and the achievement of a budgetary balance.

The course which I propose is a different and difficult one. However, it does provide the best chance of success if we define success to be the rejection of short-term illusionary but politically popular gains and the substitution of long-term less popular measures which lead to the gradual reduction of the existing budget deficit. It is well to point out at the outset that there is no magic number, no deficit which is inherently right or inherently wrong. This thesis stems from the fact that economics is not an exact science and that our experience with deficits of the size of last year's and this year's projected deficit is quite limited.

Therefore, I cannot tell you with complete confidence that there will be no financial competition between private investment and public deficits at a deficit level of $60 billion or even at a deficit level as low as $45 billion. I can, however, say with confidence that larger deficits are less compatible than smaller deficits with the potential needs for private investment which now exist and will continue to exist in the private sector.

I can also state with some assurance that the need for a stimulative deficit has been vastly overstated by those who for reasons of their own have overstated the extent and character of unemployment, not only at the depth of the recession but, more importantly, at the present time.

It is well to remember that while the unemployment rate is high, the employment rate—that is, the employed percentage of the noninstitutional population over 16 years of age—has returned to its long-run average. Thus, the present sizable unemployment numbers reflect more people looking for work rather than the existence of fewer opportunities to work. Many of these new entrants into the labor force are seeking work only as an attempt to maintain the purchasing power of the family unit which has been eroded by past and continuing inflation.

Thus, the best way to effect reemployment would be through policies which will not dissipate consumer and business incomes by resurrecting the rapid rates of inflation which existed in 1974 and early 1975.

The financial position of consumers is better right now than at any time since we first encountered inflation and recession several years ago. Not only are incomes growing more rapidly now than they were last year, but the reduced rate of price inflation has increased the purchasing power of these rising incomes. For example, in January 1976, real spendable earnings of the typical worker with three dependents jumped 4.3 percent over the year before. This was the fastest percentage rise in consumer buying power since November of 1972. Stock prices have risen rapidly. They are currently some 60 percent higher than they were in December 1974. This rise itself has added enormously not only to wealth, but to consumer confidence.

During this time period, consumers have reduced their outstanding installment debt and finally, consumers' savings have increased well above normal levels providing yet another and expanding source of funds to sustain high levels of consumer spending. These are all positive components which will serve to propel the recovery in its initial phases

through the expanded spending and debt creation of consumers.

This momentum, however, is fragile. What we do in the way of establishing a level of Federal spending and its associated deficit which contributes to a rekindling of inflationary expectations will cause a change in consumer sentiment and business confidence. Thus, we have in our power the opportunity to alter consumer expectations and reduce or eliminate the consumer as a source of ongoing spending impetus within the recovery.

Recent evidence indicates that the consumer is spending not simply to replenish his depreciating stock of goods, but is making net new additional commitments to food, clothing, other necessities, and spending on seasonal and durable goods. Perhaps the most important single indicator of the consumers' ability and willingness to initiate new purchases can be seen in the expanding sales of automobiles. Such sales increases reflect a change in the former philosophy of retrenchment and an increasing willingness to undertake long-term financial commitments.

The combination of improved consumer sentiment in conjunction with expanded liquidity have and will continue to lead to a sharp increase in final sales. In fact, such sales grew at 11 percent over the last year. Given the fact that during the same year the inflation rate was approximately 6½ percent, there has been a real and meaningful increase in consumer purchases and in the final sales of manufacturers and retailers. In response to this sales increase, inventory liquidation at both the manufacturing and retail level has ceased. The heavy Christmas sales have set the stage for large increases in inventory accumulation as business prepares itself for the spring and Easter season.

As this scenario unfolds, the demand for business loans will expand in a significant but not surprising fashion. In conjunction with that increase, short-term interest rates will begin to rise. The economic recovery will proceed in a classical fashion and real gross national product will rise at a rate of 7 percent or more in 1976. Inflation will remain a problem and we can anticipate an inflation rate during this same year of somewhere in the neighborhood of 5 percent. Corporate profits will probably rise between 25 and 30 percent. The unemployment rate will fall to 7 percent or perhaps even a little lower. In short, the down side economic risks associated with 1976 are virtually zero.

With this as background, let us turn briefly to look at the implications of the Federal budget for fiscal year 1977. The proposed budget for fiscal year 1977 makes the erroneous assumption that it shall be the Federal Government which shoulders the burden of providing the momentum for the recovery. If that momentum is provided as a result of increased Federal spending, it does not provide the basis for a sustainable and noninflationary recovery in 1977 and beyond.

Clearly, in 1977 the focus or burden for the preservation of the recovery should be consciously shifted from the public to the private sector. The budget, as proposed, makes no provision for that shift. A shift of responsibility to private sector clearly implies and confidently promises an increase in Treasury revenues which would rise more rapidly than is now expected in the budget we have before us.

Such a shift would provide for the eradication of Federal deficits on a gradual and predictable basis as the private sector increases the availability of jobs thereby increasing tax revenues, and decreasing Federal expenditures in the area of welfare aid, unemployment compensation, and other income maintenance programs.

Dramatic reductions in the functional categories of 400, 450, 500 and 600 could be realized in a *normal nondisruptive* manner. Clearly, if the burden of economic recovery is not shifted to the private sector, we will find ourselves embarked on a predictable path of increasing Federal stimulus, creating deficits, and financing those deficits in competition with an expanding private sector. If experience is any guide, that competition will result in the monetization of the deficit, an increase in the money supply, rising interest rates, and ultimately a reestablishment of the situation which was initiated in 1965 and culminated in 1974 in rapid inflation and low rates of economic growth.

In short, the budget which we have before us is a blueprint for an eventual return to stagflation. The responsibility of the Congress at this point in time requires that we be patient and permit the natural and proven processes of the free market to operate in a manner as unfettered as possible. If this course of action is adopted, I am confident that we can look forward to rapid rates of economic growth in 1976 and 1977 and reduced, but sustainable long-run economic growth rates beginning in 1978.

The economic philosophy which determines my approach to the function of the Federal budget and its role in fostering economic growth is a proven one. The economic philosophy espoused by the majority of the committee and implicit in its recommendations is both tenuous and in many areas discredited.

In addition to the inherent deficiencies which would be a part of any resolution designed to conform to a Keynesian world view, the committee's resolution labors under the additional burden imposed by a well-intentioned, but misleading measure of fiscal policy, that is to say, the measurement of fiscal policy in terms of the "full employment surplus or deficit." At best, this policy serves to indicate the hypothetical status of the budget on the assumption of full employment. It should not be used as a policy planning device when full employment is unattainable in the near future. Used in such an inappropriate manner, it creates the mistaken impression of providing a fiscal blueprint for the actual attainment of full employment.

The use of fiscal policy to stimulate and direct the level of economic activity, as applied within a Keynesian context, was once conceived to be a panacea for all problems associated with stabilization. During the past 40-odd years it has failed to provide an effective substitute for the free market as a system for directing economic growth and distributing the material rewards of that growth. Bad theory cannot be validated by the endless expenditure of funds and the creation of deficits. It is my conviction that the policy of returning more resources to the working men and women of this country will create a more lasting and equitable solution to the problems of inflation and unemployment.

Productive, purposeful employment may be said to be the "bottom line" of a Federal budget, but in the final analysis, jobs cannot simply be called into being by the wish of the Federal Government. The jobs that Government "creates" are basically the result of transferring resources from private individuals and disposing of those resources in what is hoped to be a beneficial manner.

This does not create jobs or wealth, it merely redistributes them. Jobs are created by savings and investment in productive enterprise. The very policies of Government that are intended to provide jobs do so in the short run by transferring funds into current consumption and away from savings and investment, away from the uses that would provide real jobs for the future. Federal policies presently incorporate a tax bias against the real force of jobs creation. As a real contribution to jobs creation, then we would do well to investigate the alternative of tax credits for appropriate savings and investment. We would increase the flow of real savings and, by this means, we would enhance the economy's ability to provide a durable framework in which jobs would be both productive and secure, qualities too often lacking in Federal "job creation" programs.

Mr. HOLLINGS. Mr. President, today we begin the second year under the procedures established in the Budget and Impoundment Control Act of 1974. It is the role of the Senate Budget Committee, under this act, to recommend in the first concurrent resolution the appropriate targets for outlays, budget authority, revenues, the size of the deficit, and the public debt for each fiscal year, and to monitor the compliance of the various authorizing and spending committees with these targets. Later in the year, the committee must report a second concurrent resolution on the budget, setting firm ceilings on spending legislation and firm floors under revenues.

The purpose of the Budget Act is to restore congressional control over the budget process, and allow Congress to fulfill its responsibilities in the setting of fiscal and economic goals.

Last year we proved that the new process works. Congress accepted the new budget discipline required by the act.

This year we are operating for the first time under the deadlines established by the act. These require that all stages of the budget process, and all regular appropriations, be completed before the beginning of the new fiscal year on October 1.

Senate Concurrent Resolution 109, which is before us today, provides for

outlays of $412.6 billion in fiscal 1977, with revenues of $362.4 billion and a deficit of $50.2 billion.

The total amount of new budget authority recommended in this resolution is $454.9 billion.

The committee recommends that the temporary tax cut enacted in December 1975 be extended at least through fiscal 1977, providing some $17.3 billion in tax relief compared to permanent law. In addition, the committee recommends that tax reforms be enacted which will recover $2 billion by reducing or eliminating certain loopholes in the present law. Thus the next tax reduction from present law will be $15.3 billion.

The committee recommends against the enactment of new increases in payroll taxes.

The deficit recommended by the committee falls within a billion dollars of the deficit proposed by the President, when adjustments are made to put the two budgets on a comparable basis. This deficit is entirely attributable to the continuing economic recession, which reduces revenues and increases eligibility for unemployment benefits and food stamps compared to the situation which would occur at full employment.

The Nation is in the midst of a recovery from the recession, but we still have a long way to go. The spending and tax policies recommended by the committee will continue economy recovery at a more rapid pace than that which would result from the President's proposed 1977 budget, avoid actions such as payroll tax increases that would increase the rate of inflation, increase funding for energy research, and conservation, maintain Federal aid to State and local governments, and provide for added defense purchases necessary to maintain our existing forces, and assure that no world power misreads our determination to protect our interests and our allies.

In relation to the President's proposed 1977 budget, this committee gives a higher priority to Federal assistance to States and local governments, energy research, conservation, education, and manpower training, including jobs, health programs, and income security.

This committee's recommendations also move steadily in the direction of making our Government more efficient. They will result in an overall savings of $8.8 billion compared to what would be spent in 1977 under the laws and policies for which funding was provided last year, as adjusted for inflation and changes in the number and types of Federal beneficiaries.

On the question of national defense, we are recommending budget targets of $113 billion in budget authority and $100.9 billion in outlays. Included in these totals are cost-reduction actions totaling $5.4 billion in budget authority and $4.5 billion in outlays from current policy levels. We recommend putting some of these savings back into defense to pay for needed increases in procurement, research and development, and operations and maintenance. The resulting targets are $1.2 billion below current policy for outlays and $3.6 billion above current policy for budget authority.

The major savings we are recommending are in pay reform, personnel cuts, and management improvements. Some of the savings can be accomplished by administrative action. The executive branch has said it plans to undertake these actions. Others will require legislation. The recurring savings which will result, if these actions are taken, are well in excess of $20 billion over the next 5 years.

For example, we are recommending that Congress go along with a cap on Federal pay increases of 4.7 percent. Coupled with planned administrative changes in the methods used to establish comparability between Federal and non-Federal pay, this cap will save $2.2 billion in the national defense function alone, and $3.6 billion throughout the Federal budget in fiscal 1977.

Most of this saving will come from proposed changes in the pay comparability survey. For 1977 and later years, computer operators and secretaries will be included in the non-Federal job categories surveyed to determine the relationship between Federal and non-Federal pay levels. Personally, I believe this move to introduce more realism into the computation of Federal civilian pay is long overdue. Between 1964 and 1976, average Federal civilian pay in the Department of Defense has risen from $7,000 a year to $15,900 a year, or nearly 60 percent faster than the cost of living. Our civil servants and military deserve fair and adequate pay. Their pay should continue to be comparable to pay in the non-Federal sectors of the economy. But the computation of comparability should be based on a truly representative selection of non-Federal jobs. For example, I believe the President's pay panel should give serious consideration in future years to including State and local government employees in the pay comparability survey.

We are also recommending that Congress enact legislation to change the method of computing Wage Board employee pay increases. In fiscal 1977, these changes in current law will save over $200 million. By 1981, the annual savings will reach $1.1 billion. The effect of these changes will be to lessen the gap between local prevailing wage rates and Wage Board pay.

Third, we are recommending that the Congress adopt legislation to eliminate the "1-percent kicker" from the formula for computing cost-of-living adjustments for retired Federal employees and retired military. The effect of this kicker in recent years has been to increase Federal retired pay by more than the amount of annual inflation. This provision is substantially more generous than that provided under the social security program.

Indeed, even with the elimination of the 1-percent kicker, retired Federal employees will be entitled to more frequent cost-of-living adjustments than those provided under social security. Repeal of the 1-percent kicker will save about $150 million in fiscal 1977 and about $1 billion in fiscal 1980. In the national defense function alone, the fiscal 1977 savings will be about $80 million and the fiscal 1980 savings will be about $400 million.

Fourth, we are recommending enactment of legislation this year to change the military pay-raise formula so that a larger portion of the raise can be allocated to the basic allowance for quarters. This change will permit the transition to a fair market rental basis for computing the value of Government-supplied housing. Savings in fiscal 1977 amount to about $500 million. In 1980, the savings will reach $300 million a year.

Fifth, we are recommending legislation to restrict payments for military terminal leave to a maximum 60 days, plus other minor legislation affecting compensation for military cadets and Reserve personnel. The fiscal 1977 savings are in excess of $100 million.

Sixth, we believe it is time that the Department of Defense be allowed to phase out the annual operating subsidies for military commissaries. Fiscal 1977 savings could amount to about $90 million. By 1980, over $300 million a year would be saved by this move, which would put the commissaries on the same footing as the post-exchange system, which receives no operating subsidy.

Finally, we are recommending that the Congress grant the President additional authority to dispose of excess commodities in the national strategic stockpiles. The President has estimated that such legislation would generate receipts in fiscal 1977 of more than $700 million.

Other cost-reduction actions contemplated by the Budget Committee include a reduction in civilian jobs in the Department of Defense, the absorption of a portion of the pay raise through the use of available unobligated funds which have already been appropriated, and the possibility of instituting contributory retirement for military personnel.

Many of these money-saving proposals will be highly unpopular with some constituents. I sympathize with our military personnel and retireees who oppose the withdrawal of the commissary subsidy. I would like to provide generous pay increases to all Federal employees. But we must look at the alternatives.

As I noted earlier, the cost-reduction actions assumed by the Budget Committee would save $4.5 billion in fiscal 1977 outlays compared to what we would have to spend if current policies were continued. If the Congress respects the defense outlay and the budget deficit targets set forth in this resolution, then for each billion dollars of these savings which is rejected, an offsetting reduction will have to be made elsewhere. Let me give you some examples of the kinds of alternative reductions we would have to make.

We could try to realize the savings by cutting people. To achieve a $1 billion saving in the fiscal 1977 defense payroll, we would have to eliminate between 170,000 and 250,000 jobs.

We could try to realize the savings by cutting funds for operations and maintenance, other than payroll. To save $1 million in outlay would require a cut of $1.4 billion in appropriations for maintaining the readiness of our military units and their equipment.

If we wanted to get $1 billion in outlay savings by cutting research and de-

velopment, we would have to reduce appropriations for these activities by about $2 billion.

If the outlay savings were taken in procurement, we would have to cut up to $7 billion in new appropriations for procurement.

Taken all together, these cuts in the defense program would total over $11 billion in appropriations but would save only $4 billion in outlays.

So the choice is clear. We can commit ourselves to realize all or most of the cost reduction actions recommended by the Budget Committee and the President. Or we can make large cuts in the defense program. Or we can junk this budget resolution and its targets. I would like to remind my colleagues that the inevitable consequence of the last course of action would be much larger deficits, and a complete abdication of our responsibilities under the Budget Act of 1974.

Next I would like to turn to the question of the roughly $9 billion in real growth in budget authority for defense purchases provided in this resolution. Defense purchases exclude all pay and allowances for Government employees.

The allocation of this real increase in the President's budget is as follows:

Real growth in budget authority constant fiscal 1977 dollars (billions)

Operations and maintenance	$1.8
Procurement	6.7
Research, development, test, and evaluation	.8

The big increase is in procurement, which grows by $6.7 billion after adjustment for inflation. Operations and maintenance gets an increase of $1.8 billion, while the R. & D. budget grows by about $840 million.

I voted in the Budget Committee to allow room for these increases for several reasons.

First, I think it is now clear that we have not provided enough funding in recent years for the necessary modernization of our military forces.

For example, in the last 4 years, from fiscal 1973 through fiscal 1976, we spent an average of $30.4 billion a year for defense procurement and R. & D., measured in dollars adjusted to reflect fiscal 1977 price levels. On the same price basis, our spending for procurement and R. & D. in the 4 years from fiscal 1962 through fiscal 1965 averaged $42.4 billion a year. Since 1973 we have been spending 28 percent less each year, on average, to modernize our forces than we spent in the early 1960's. But our force structure is not 28 percent smaller.

We have to realize that the equipment of our Armed Forces must be maintained and replaced on a fairly regular schedule. The equipment wears out, or it becomes incapable of performing its mission against improved forces fielded by our adversaries. Moreover, the technological improvements required to maintain the capability of our forces as time passes tend to make each new generation of weapons more costly than the last.

Thus it is not unreasonable to conclude that, unless we reduce our forces, we will have to spend more in the next 5 years to maintain and modernize them than we have been providing in recent years. The Congressional Budget Office reached a similar conclusion in its recent annual report to the Senate and House Budget Committees on budget options for fiscal year 1977.

Of course, some may believe that we can maintain and improve our forces within recent budget levels by procuring less costly but equally effective equipment. I firmly support efforts to eliminate unnecessary requirements and other gold-plating from weapons design, and to eliminate unnecessary duplication in defense procurement. But I challenge the experts on defense procurement to show me how we can achieve the necessary modernization of our forces in the next 5 years without increasing funds for procurement above recent levels.

I believe that if we do not provide this increase, our military forces are inevitably going to decline over the next 5 years.

There is a misconception by some that our forces are getting larger, that we are engaged in some sort of arms race with the Soviet Union, that the momentum of this arms race is getting out of control, and that the only solution is to cut our defense budget.

On the contrary, this budget does not contemplate any significant force increases above those we have already agreed to in the past 4 years. If we adopt this defense budget and provide comparable levels of funding in each of the next 4 years, by 1981 we will still have 16 divisions, about 40 tactical air wings, about 500 Navy ships, and comparable strategic forces. Within this force structure, there will be changes in emphasis and some improvement in capability.

For instance, instead of 15 carriers we may have 12, and instead of 22 Air Force wings, we may have 26, but the total number of tactical aircraft will not change significantly. The ground forces will have more mechanized brigades and fewer infantry brigades, reflecting a shift in emphasis from Asia-oriented infantry divisions to Europe-oriented forces.

So, this budget increase will allow us to remain on an essentially level defense effort.

In addition we should not forget that over the past 4 years, the purchasing power of defense appropriations provided by Congress was reduced by at least $6 billion due to unanticipated price changes. Although the Defense Department overestimated inflation last year by about $2 billion, the shortfall from previous years was well over $8 billion. We have not made up this amount, which has the same effect as an unplanned cut in the defense budget.

My final reason for supporting an increase in the defense budget is the clear evidence that the Soviet Union is not reducing its forces or moderating its foreign policy. If anything, the Soviets seem to be expanding their forces, and to be getting more adventuresome.

I am not impressed with alarming comparisons of United States and Soviet defense spending, because the comparisons do not tell us the whole story. We know, for example, that a part of the Soviet defense budget supports forces aimed at China, not at the United States or its allies.

Nor am I impressed with one-sided comparisons of United States and Soviet forces which seem to imply that we should have as big an army as the Soviet Union, or which fail to take into account the importance of our NATO allies in the defense of Europe.

But I am impressed with the continued Soviet efforts to get ahead of the United States in strategic arms, with their aggressive naval operations, and with their increasingly interventionist foreign policy. I do not think their challenges can be ignored. I am impressed with evidence suggesting that unless certain deficiencies in NATO forces are corrected—especially in air defenses—we might be forced to use nuclear weapons very early if a war should break out in Europe. I am impressed with the vulnerability of Western oil supplies and other raw materials to embargoes and interdiction. I do not think we should be complacent about these dangers.

I am not wedded to all our present policies, the force structure or existing defense priorities. I believe we should debate the foreign policy, and look at the costs and the need for the division in Korea, the divisions in Europe and the strategic reserve. I think we should look at the size and role of the Navy, whether it deserves a higher or lower priority, and whether we need to have nuclear powered strike cruisers. I think we should consider whether we need 240 B-1 bombers, or some other number, and whether the B-52's can be extended in service. I think we need to give particularly careful attention to the future of our land-based missile forces, and to the whole question of the strategic balance.

In short, I believe there are some force improvements which we ought to be giving a higher priority—like air defenses for our forces in Europe—and others which may have a lower priority, or ought not be carried out at all. I am persuaded that a mission budget approach will help us all gain a better understanding of these issues.

But I do not think this first concurrent resolution for fiscal 1977 should be the vehicle for making any major changes in defense policy. It is clear that we need these funds to keep up the forces we now have. And it is clear to me that with the present international situation, we should not be planning any major defense reduction this year.

Mr. CHILES. Mr. President, the Senate Budget Committee has done its work, and the Senate has before it the first concurrent resolution on the budget for fiscal year 1977. After a successful dry run last year, this year we need to strengthen the new budget process in both Houses of Congress so that we continue to develop an effective tool for congressional control of Federal spending.

The Senate Budget Committee again this year has followed a prudent course, neither throwing the economy into a tailspin by excessive cuts in on-going programs nor overheating the economy

with excessive spending and continually increasing deficits. I urge the Senate to adopt the course set by the Budget Committee by passing this resolution substantially as it is.

Who in the world does not have misgivings about voting for $413 billion in Federal spending and a $50 billion deficit? I certainly do. But I have gone over every function in the budget trying to see where there is fat and inefficiency and where reductions could be made. It is a disheartening task. Because for every billion dollars you find that you think you can legitimately cut there are $10 billion in program growth that seems almost to be inevitable.

In the Budget Committee we made as many reductions as we could. While many of us would want the figures to be smaller, the realistic truth of the matter is that without the Budget Committee there is no doubt in my mind but what the numbers would have been a lot bigger.

I believe that fiscal responsibility is the key to a growing, stable economy. The sooner we get back to a balanced budget, the better off we will be. The course set in this resolution does not reach these goals but it points in the right direction.

Without the new budget process, Federal spending would have been much greater. The total spending level set in this first concurrent resolution asserts considerable budgetary control. It is $9 billion less than would have been the case if we had just let existing Government programs grow at the current rate. These reductions will have a permanent effect and will continue to decrease spending in future years, so that by 1980 they will reduce the budget by about $15 to $20 billion.

This will produce a cumulative savings of $50 to $60 billion between 1977 and 1980.

Our spending total in this resolution is almost $30 billion less than the sum total of spending requests that we received from the authorizing committees of the Senate.

The role of the congressional budget process is to discipline the spending of the Congress as well as that of the administration. This kind of $30 billion cut in what the committees of the Senate would like to spend is a good sign of fiscal restraint.

We can feel some accomplishment in having done better at budgetary control this year than was achieved last year. The deficit in this resolution is one-third lower than the deficit of last fiscal year. Recognizing some unrealistically low estimates contained in the President's budget, the difference between the President's deficit and the deficit in this resolution is smaller than might have been expected.

The rate of growth in Federal spending provided for in this resolution, after allowing for inflation, is down to 5.9 percent from 7.1 percent last year. These figures indicate that the trends are in the right direction and are leading us toward a balanced budget in the near future.

So I think the work of the Senate Budget Committee merits the support of the entire Senate. While I would like the level of spending and the deficit to be less, I do not think this budget can now be significantly reduced without either gouging particular programs and letting the rest off the hook or having the budget aggravate rather than alleviate the sluggishness of the economy and the high rate of unemployment.

At the same time, I do not think this budget can or should be significantly increased. This is the budget for fiscal year 1977. Fiscal year 1977 begins in October of this year and runs through October of 1977, almost a year and a half from now.

I think it would be very unwise to make a decision now that the economy will need the extra stimulus of still more spending a year from now. I do not think the evidence we have is persuasive that the economy will need a shot in the arm a year from now. Quite the contrary. All the evidence seems to suggest that we are on the way to recovery.

The experts have tended to underestimate the degree of recovery so far and it would not surprise me if we underestimate now where the economy will be in a year's time.

As the Budget Committee completed its markup of this resolution last week, it was said that given the fact that we had reduced spending $9 billion below the level of projected spending under current policies and had rejected an additional tax cut of $5 or $10 billion, it was more likely that the rate of economic growth for 1977 would be in the 5½ to 6 percent range than in the 7 percent range that it was said would result if we adopted the additional measures.

We cannot be that certain of what the course of events or the consequences of our actions will be. There is a lot of strength emerging now in the private sector and in consumer spending which is hard to predict precisely. If this strength continues, the economy may well not need the marginal stimulus more spending or an additional tax cut might provide.

I submit an article on the current business situation from the March 1976 Monthly Review of the Federal Reserve Bank of New York, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit.)

Mr. CHILES. Finally, I would point out that it is easier to add more stimulus later than it is to withdraw it if we decide on it now. If we find in October, when we consider the second concurrent resolution on this budget, or early next year, that the economy is indeed beginning to falter or that unemployment is not continuing to decline, then at that time we can add to spending or pass an additional tax cut.

Unlike monetary policy, once these fiscal policy decisions are made, they have a relatively quick effect upon the economy. We can make a decision in October and have an effect on the economy by the beginning of the year or make a decision in January and have an effect on the economy in April or May.

But if we make a decision now to increase spending or the deficit, we are going to have a whale of a time telling people that we are canceling those decisions in 6 or 9 months because the economy is doing well on its own.

I am as much for reducing unemployment as anyone in the Senate. The unemployment rate in the State of Florida is one of the worst in the Nation. But I find no compelling reason at all for adding more to spending or to the deficit now to spur employment and the economy next year. My feelings go just the other way.

It is terribly important that we not misjudge and over-react and end up with the burden of additional spending and added deficits to have to bring under control next year.

This is the kind of budgetary restraint and control the new budget process is intended to establish and I hope the Senate will support the basic thrust of this resolution reported by the Senate Budget Committee.

The exhibit follows:

(EXHIBIT 1)

THE BUSINESS SITUATION

The economy has expanded briskly in the past few months, following a temporary slowdown in the recovery last fall.[1] In January, industrial production again posted a strong and broadly based advance. Solid gains were also recorded at the beginning of the year in new durables orders and personal income, while the composite index of leading indicators registered its sharpest increase since July of last year. Retail sales had spurted in December, and most of this gain held up in January as well. The fact that consumption spending did not retreat to pre-Christmas levels, as some analysts had expected, indicates the underlying strength in this key sector. Labor market conditions have also improved greatly in the past few months. Employment expanded further in February, while the unemployment rate dropped 0.2 percentage point to a fourteen-month low of 7.6 percent.

While the general economy continues to recover, some sectors remain depressed. Most notably, residential construction has yet to show signs of a sustained resurgence, and real business fixed investment also continues to be weak. In time, however, the momentum of the economic recovery should help to revitalize activity in these sectors as well.

Meanwhile, the price situation appears to have taken a turn for the better in recent months. The prices of consumer nonfood commodities rose in January at the slowest rate in over two years, and food prices actually declined. As a result, the rate of advance in the consumer price index slowed to a modest 5 percent annual rate. A marked improvement was also evident at the wholesale level. Agricultural prices dropped in February for the fourth consecutive month, while wholesale industrial prices posted their smallest increase since last spring. Overall, wholesale prices fell in February by the largest amount in a year.

INDUSTRIAL PRODUCTION AND INVENTORIES

Economic activity continued its upward thrust in January. According to the Federal Reserve Board's index of industrial production, outpost rose 0.7 percent in that month, marking the ninth consecutive monthly advance. Since bottoming out last April, pro-

Footnotes at end of article.

duction has climbed 8.6 percent. Thus far, the progress of the current recovery is quite in line with the rates of expansion experienced in previous postwar recoveries. Nonetheless, because of the severity of the most recent recession, production must still increase an additional 6.9 percent before the November 1973 peak is reattained. Even then, however, output will still fall considerably short of an expanded potential productive capacity.

The January gain in industrial production was broadly based. Across market groupings, output increased for durable and nondurable consumer goods, business equipment, intermediate products, and materials. The gain was also widely distributed among the major industry groupings—durable goods manufacturing, nondurable goods manufacturing, mining, and utilities. Within durable goods manufacturing, output of motor vehicles and parts did decline, but this was the result of cutbacks in the production of automobiles, as the automotive industry sought to bring inventories into balance. Domestic car production slowed from a 7.8 million unit annual rate in December to a 7.6 million rate in January. At the same time, sales of domestic units climbed from an 8.2 million rate to an 8.4 million rate. As a result, car dealers' inventories, which had been as high as 102 days' supply in November 1974, dwindled to a modest 56 days' supply.

For some time now, the rebound in industrial production has received almost no stimulus from the automotive sector. Indeed, automobile production in January was virtually identical to what it had been last July. Now, however, excess inventories of automobiles have largely been eliminated. While there still exists a surplus of small cars, which are not selling as well as had been anticipated, there is a shortage of certain large cars, necessitating some plants to work overtime. At the same time, the sales outlook has improved while the import share of the market has declined sharply. Last spring, 22 percent of all cars sold were imported; in January, the proportion amounted to 12.5 percent. These conditions all point to a pickup in domestic automobile production. Indeed, the first signs of this were visible in February, when automobile production jumped to an 8.1 million unit rate.

In the months ahead, industrial production should get a further boost now that excess inventories in other industries have also mostly been eliminated. Overall, business inventories declined in December for the second consecutive month, as inventories in the retail trade sector were once again pared. In terms of constant dollars, the business inventory-sales ratio fell in the final quarter of 1975 to its lowest value in two years. Whereas earlier inventory reductions had been deliberately engineered, the most recent rundown appears to have been largely unintended. Retailers, who in previous months had been adding to their stocks, were apparently caught off guard by exceptionally strong Christmas sales, and to meet these sales they were forced to deplete their inventory stocks. The wholesale trade and nondurables manufacturing sectors can also be expected to participate in an inventory buildup. Indeed, inventories in these sectors actually rose in December. Only in durable goods manufacturing, which experienced its tenth consecutive monthly decline, does it appear that inventories may still be greater than desired. Yet, even in this sector, the December reduction amounted to the smallest since April, suggesting that durables manufacturers will soon begin to build up their inventories. Thus, for the economy as a whole, the near-term outlook is for inventory accumulation, but businessmen, hurt by excess inventories in the past year or so, are likely to exercise restraint in replenishing their stocks.

NEW ORDERS AND CAPITAL SPENDING

After being essentially flat for four months, the flow of new orders received by durable goods manufacturers increased 3 percent in December, according to upwardly revised data, and advanced another 2.2 percent in January. Because this series is a leading indicator of future economic activity, its lack of exuberance last fall had caused some concern that the recovery might have prematurely stalled. Hence, the recent upturn is especially heartening in that it has helped to dispel such fears. The advance in new orders, however, has not been uniformly distributed across sectors. In particular, new orders for nondefense capital goods have remained sluggish, dropping sharply in December before edging up in January. Durables shipments exceeded orders in January for the fifth straight month, and the backlog of unfilled orders continued to slide.

The lackluster performance of new orders for non-defense capital goods no doubt reflects the lingering weakness in capital spending. Although real business fixed investment did turn positive in the fourth quarter, following six consecutive quarterly declines, recent surveys on planned capital expenditures point to a decline in real investment in the coming months. These predictions may, however, be unduly pessimistic. As sales continue to increase, businessmen may revise upward their plans for investment, especially now that the profit picture has improved. Moreover, prospective capital outlays have traditionally been underestimated in the surveys at this stage of the business cycle.

CONSUMER SPENDING, PERSONAL INCOME, AND RESIDENTIAL CONSTRUCTION

According to advance data, retail sales in January edged down slightly following the December surge. Nevertheless, the fact that retail spending held up as well as it did in January was widely regarded as a sign of underlying strength. Although monthly movements have been quite erratic, the trend in retail sales is clearly upward. Indeed, over the past four months, sales have advanced at an annual rate of about 12 percent. January's decline was more than accounted for by lower sales in the automotive sector. Despite an increase in unit sales of domestic automobiles, initial reports indicate that total sales in the automotive sector—which includes, among other things, purchases of used cars as well as imported cars—fell sharply below December's level. Excluding the automotive component, sales actually advanced 0.6 percent.

The outlook for future increases in consumption spending remains bright, as personal income is continuing to rise. In January, personal income climbed at a 13.6 percent annual rate, the sixth consecutive monthly advance. Over this six-month period, personal income has grown, on average, at an 11.6 percent annual rate. The bulk of the January gain came from higher wage and salary disbursements, as increased man-hours were translated into increased payrolls. The continued sharp rise in income may soon be matched by an increased willingness to spend. As consumers gain confidence that the economy is recovering, they are likely to cut back on their savings, now at a historically high rate. There are already signs of a renewed willingness to buy on credit. Consumer installment credit rose in January by the largest amount in seventeen months.

The residential sector is one area where spending has remained weak. Although this sector is in much better shape than a year ago, it has yet to show signs of a sustained healthy resurgence. Indeed, in January, for the third consecutive month housing starts slipped. Even here, however, there are reasons for optimism. Early this year, the Administration agreed to release $3 billion in Federal funds for the purpose of lowering mortgage interest rates on certain multiple-family housing to 7.5 percent. This should stimulate the multifamily sector, which has been the most depressed. Single-family housing should also benefit from lower mortgage rates which have fallen considerably below last fall's lofty peaks. Another encouraging sign is the dwindling backlog of new housing. January's inventory-sales ratio for new one-family homes was the lowest in three years. Finally, building permits jumped 10.7 percent in January to reach a twenty-month high.

LABOR MARKET

Conditions in the labor market strengthened further in February. The number of workers on nonagricultural payrolls showed a healthy gain of 210,000, as most major industries continued to add to their payrolls. Average hours of work did slip—both in manufacturing and in the private nonfarm economy—but still remained at or above their 1975 highs.

According to a separate survey of households, nonagricultural employment expanded by almost 300,000 workers, while total civilian employment increased slightly, following an outsized gain in the previous month. At the same time, the size of the civilian labor force was virtually unchanged. Hence, the unemployment rate fell 0.2 percentage point to 7.6 percent in February, the fourth straight month of declining joblessness. February's drop in the unemployment rate was particularly reassuring. Because of possible seasonal adjustment problems, many analysts thought that the decline registered in the previous month might have been overstated, with some predicting an upturn or at least a leveling-off in February. The fact that the jobless rate continued to fall, however, suggests that recent data showing improvements in the labor market have primarily reflected underlying market conditions rather than misestimation of seasonal factors. With the strengthening of the economy, civilian employment now has returned to its pre-recession peak while the unemployment rate, although still high by historical standards, is at its lowest level in fourteen months.

PRICES

Wholesale prices declined in February, marking the fourth consecutive month that these prices have either fallen or held steady. The drop, 0.5 percent (not annualized), was the largest of the past year. Price increases for industrial commodities continued to decelerate. February's 0.3 percent advance was only half as fast as the average rate of the previous six months. One of the most encouraging signs was the turnaround in the prices of crude materials. Between November and January, these prices had advanced at an average of 1.6 percent per month. Moreover, the National Association of Purchasing Management revealed that in recent months a growing percentage of its members have faced rising materials prices. Because price increases tend to work through by stage of process, there had been some concern that wholesale prices of finished products might accelerate in the near future. But, with wholesale prices of crude materials declining 1.2 percent in February, that now appears at least somewhat less likely. Wholesale food prices also declined in February. Thanks to 1975 record harvests, the prices of farm products and processed foods and feeds have now fallen 7.6 percent since October.

The effect of lower food prices at the wholesale level was manifested to consumers in January. After rising 0.6 percent in both November and December, the food component of the consumer price index declined in January by 0.2 percent. Because wholesale food prices typically lead retail prices by several months, the near-term outlook for consumers' grocery bills is bright. The Department of Agriculture predicts that food price increases will be limited to 1 per-

cent in each of the first two quarters of 1976. What will happen after that, however, is especially uncertain, since it will depend in large part on weather conditions. Of particular concern are the winter drought and dust storms of the grain belt, which have caused the Department of Agriculture to lower its estimates of harvest yields.

The overall consumer price index advanced at a 5 percent annual rate in January, 1.5 percentage points below the rate of the previous month.[2] Nonfood commodities continued their pattern of moderate inflation and rose at a 2.4 percent rate, abetted by a drop in energy prices. This marked the fifth consecutive month in which prices of nonfood goods have increased at less than a 5 percent rate. On the other hand, services prices accelerated in January to a rate almost double that of the preceding month. Part of the run-up was attributable to a one-shot boost in postal rates. Another portion, more worrisome, reflected higher medical costs and automobile insurance rates, which have both risen fairly rapidly in recent months.

FOOTNOTES

[1] According to revised estimates, the advance in real gross national product (GNP) amounted to a 4.9 percent annual rate in the fourth quarter, down 0.5 percentage point from the preliminary estimate. In addition, the level of the implicit price deflator for GNP was revised upward by 0.3 percentage point to 6.8 percent.

[2] Beginning with the January data, the Bureau of Labor Statistics has revised its procedures for seasonally adjusting the series that make up the consumer price index. Adjusted values of the indexes are now derived by adding together their seasonally adjusted components, whereas before the total consumer price index and its major components had been seasonally adjusted independently of each other.

The PRESIDING OFFICER (Mr. GLENN). Who seeks recognition?

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an amendment:

On page 1, line 7, strike out "$12,600,000,000" and insert in lieu thereof "$413,400,000,000".

On page 1, line 9, strike out "$454,900,000,000" and insert in lieu thereof "$455,700,000,000".

On page 2, line 3, strike out "$50,200,000,000" and insert in lieu thereof "$50,800,000,000".

On page 2, line 5, strike out "$362,400,000,000" and insert in lieu thereof "$362,600,000,000".

On page 4, line 7, strike out "$20,000,000,000" and insert in lieu thereof "$20,800,000,000".

On page 4, line 8, strike out "$19,300,000,000" and insert in lieu thereof "$20,100,000,000".

Mr. CRANSTON. Mr. President, I am joined in offering this amendment by Senator HARTKE, the chairman of the Committee on Veterans Affairs, and two of our distinguished committee members, Senator RANDOLPH and Senator THURMOND.

Before discussing the amendment I want to express my appreciation to the chairman of the Budget Committee, the ranking Republican member, all the members and the staff of the committee, for the very hard work and effective work that has been done on this resolution, and for producing on schedule—which is quite an accomplishment in itself—the budget resolution which takes control of Federal spending and reduces the level of Federal spending well below figures that many have feared we would face.

I reaffirm my belief in the importance of the budget process and the importance of our continuing to do all that is necessary to make sure that it works.

As a member of the Budget Committee, I voted for the budget resolution, although I had grave reservations concerning the allocation of funds between different categories within the overall expenditure figure, which is the figure that I support.

Some categories, in my opinion, get too much under this resolution, others get too little.

This amendment relates to one particular category that gets all too little, and that is the veterans' function.

Ironically, the resolution, while calling for unprecedented expenditures for national defense years after the end of the Vietnam war, fails substantially to meet the true costs of that war—and they are costs—by providing for an appropriate level of expenditures to serve and care for the veterans of that war and other wars.

The amendment that we are offering constitutes in several significant respects an investment, not really an expenditure, but an investment that will, if the amendment is adopted, produce very sizable savings in the not to distant future.

If the amendment is not adopted, those savings will not be achieved.

In the not too long run, we will be spending far more than is needed on programs related to veterans, money that will not be spent if this amendment is adopted, money that will be spent, and we are talking of sizable sums, if it is not adopted.

There are two long-range cost-saving legislative initiatives now working their way through Congress.

One has been already adopted by the Senate, pension reform. The other is the resolution of the President's proposal to terminate the GI bill prospectively, which has already been adopted by the other body.

These initiatives promise savings of billions of dollars in the next decade. The savings in relation to pension reform can amount to billions alone in the future. But we are not going to make these needed reforms, we are not going to achieve long-run cost reductions, unless we make some investments now to make these initiatives balanced, reasonable, and workable. And that is much of what this amendment is about.

The amendment does not cause as large an increase in the deficit as might be assumed by a first glance.

The amendment calls for an increase of $800 million in the veterans category, but there are offsetting deductions that can be made elsewhere, and, therefore, the net deficit cost of this amendment is $600 million this year.

But I emphasize again, at once and strongly, that is the long range there is not a net cost, there is a saving of tremendous sums, billions of dollars, wrapped up in what this amendment really will accomplish.

To get more specific about the details now, we propose that the committee targets for function 700 be increased from $19.3 billion to $20.1 billion in outlays and from $20 billion to $20.8 billion in budget authority, levels in line with, but somewhat reduced from, the recommendations of the Veterans' Affairs Committee.

If the action of the Budget Committee is sustained, Congress will witness a very, very difficult confrontation, that we will become deeply involved in, between different groups of veterans all of whose just needs we simply will be unable to meet.

We will find ourselves involved in a most unfortunate four-way contest between aging veterans dependent upon pension reform, younger veterans dependent upon the GI bill, disabled veterans dependent upon disability compensation, and ill veterans dependent upon VA medical care.

Such a competition, one group seeking what it feels it is entitled to against the claims of another group of veterans for what they feel they are entitled to, is unwise. It its wholly unnecessary and it would be avoided if our amendment is adopted.

We see no realistic way under the Budget Committee's recommendations that we can continue to honor our historic commitments to those who fought our Nation's wars.

I would like to emphasize that up until this point—I am not sure what the immediate future holds, but up to this point—we have had a remarkable bipartisan consensus on veterans issues, starting in the Veterans Committee, then on the Senate floor and on the House floor, and so in the Congress as a whole, and then in the country.

This bipartisan consenus has made it possible for us to meet the true needs of the veterans of our country.

I hope we are not on the verge of a breakdown in that consensus that I think we will regret in the future.

I want to emphasize that the support for this amendment is of a bipartisan nature. I know there will be Democrats and Republicans voting for it tomorrow when it is voted upon at 10 o'clock. I hope we will also find not too many on either side of the aisle failing to recognize what is involved in this and voting against the amendment.

We believe that the Budget Committee recommendation for function 700 is unrealistic and unreasonable in light of three needs: First, for cost-of-living increases in veterans' benefits; second, for initiatives already passed by the Senate or the House; and third, for important initiatives under development in committee which would focus health care re-

sources on service-connected disabled veterans. These critical needs were stressed in the recommendations submitted to the budget committee by the Veterans' Affairs Committee.

The details are as follows:

First, veterans' compensation, pension, and readjustment benefits are not indexed by law for cost-of-living increases. As a result, for example, education benefits have not been increased since September 1, 1974, the effective date of Public Law 93-508. The Budget Committee calculated its current policy recommendations on a 1-year cost-of-living increase, not the effective date of the last benefit increase. Under this kind of current policy approach, education benefits would lose 13 months—from September 1, 1974 to October 1, 1975—to the cost of living, during which time the cost of living increased by 9.2 percent.

Second: The Senate unanimously passed S. 2635, the Veterans' and Survivors Pension Reform Act, on December 15, 1975. This followed favorable action on a waiver resolution by the Budget Committee—I repeat, the Budget Committee—during which the costs of the bill and its potential savings were fully evaluated. The fiscal year 1977 cost of the act is estimated at $485 million to $798 million, contingent on food stamp and SSI offset levels. Yet, despite the favorable action by the Senate, we find no room for this legislation in the Budget Committee figures, only vague references in the committee report. If this bill is passed by the House, equitable cost-of-living increases for compensation—requiring nearly $400 million—and educational benefits—requiring nearly $700 million—would be squeezed out or very unfairly reduced.

I stress again, there are potentially very large, long-range savings in this pension reform if we move ahead with it; if we do not reject it as we may be doing if this amendment is not adopted.

Third: The Veterans' Affairs Committee felt it was unreasonable to assume favorable action on certain Presidential recommendations for so-called cost-saving initiatives which have been consistently rejected in the past and which have little, if any, realistic chance of enactment into law.

If we had not taken that realistic approach, and I think it is essential that we behave in such a realistic fashion on the Budget Committee, we perhaps would not now face this squeeze on veterans' programs because we could have adopted other figures—such as for O.C.S. leases—to make it seem as though we had more money to use.

The one Presidential cutback proposal with the largest potential cost-saving impact—over $600 million—cutting back from 10 to 8 years the time period during which veterans can use their GI bill benefits, has virtually no support anywhere in the Congress. Quite the contrary. As each Senator knows by the mail we are receiving, there is a widespread demand for extension of the delimiting period beyond 10 years.

Fourth: The Veterans' Affairs Committee recommended new spending levels, beyond those already considered by the Budget Committee—including pension reform and the 9-month extension of GI bill eligibility already passed by the House—only for the cost of the Veterans Omnibus Health Care bill and additional appropriations estimates necessary to maintain existing health care caseload levels, and to facilitate the collection of education benefits overpayments.

If we do not provide funds to maintain existing health care caseload levels, there is once again going to be a decline in the quality of care for veterans in our veterans hospitals. Rather obviously, if we do not provide funding to collect education benefit overpayments that occur, we will lose tens of millions of dollars beyond the cost of going after those overpayments.

So, again, we are talking about an investment here that will produce savings if this amendment is adopted.

The total of these new spending initiatives—largely for effective health care—is about $200 million, about 1 percent of function 700 current policy outlays.

Fifth: It is important to emphasize that the recommendations of the Veterans' Affairs Committee did not include certain very costly pending legislation, totaling well over $5 billion in fiscal year 1977, for which considerable interest has been expressed. These include World War I pensions, extension of the 10-year GI bill delimiting date, and "accelerated" GI bill entitlement. Rather, Veterans' Affairs Committee recommendations were premised on congressional action on tow longer-range cost-saving legislative initiatives—pension reform and resolution of the President's proposal to terminate the GI bill prospectively. These initiatives promise savings of billions of dollars in the next decade. But we are just not going to be able to make the needed reforms and achieve longer-run cost reductions unless we pay some front-end costs to make these initiatives balanced and reasonable, acceptable and achievable.

Given this analysis, we are unable to understand the rationale for the action by the Budget Committee in recommending the current policy budget. Neither the committee report, nor the debate in the committee markup offer an adequate explanation.

We support the budget process and regret we find it necessary to offer this amendment. But our efforts to bring about a fair resolution of Function 700 were brushed aside in committee. We stress that the Veterans' Affairs Committee is perfectly willing to play by the rules governing every committee under this new process. We will give serious consideration to the President's and other potential cost-saving reforms and carefully evaluate the spending implications of all legislation we report. In anticipation of House actions on the pension reform measure and cost-saving initiatives and priorities assessments by the Veterans' Affairs Committee, we have revised our original amendment downward by $200 to $300 million. What we ask is a responsible figure to let us fairly balance veterans' spending priorities without being forced "to rob Peter to pay Paul," without being forced to deal with really insoluble collisions between various segments of our veteran population.

Thus, we are offering this amendment to assure that the veterans' function is raised to levels which will give the Congress a reasonable chance to balance out competing priorities and make careful, wise, and responsible spending decisions in veterans' benefits and services. Our amendment to increase Function 700 outlays by $800 million will entail an increase to the deficit of $600 million, due to a $200 million offset for increased revenues.

Mr. President, I have here a table showing total outlay needs in Function 700 of $20.4 billion based on the recommendations of the Veterans' Affairs Committee, from which I will read later. I ask unanimous consent that the table be printed in the RECORD at this point.

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

SUMMARY OF FUNCTION 700 OUTLAY NEEDS

	Million
I. Administration's budget:	
(NOTE.—The Budget assumes no cost-of-living increases in any benefit program and an 8% decrease in pension rates and a $300 decrease in maximum annual income limitations)	$17,200
II. Likely non-enactment of certain administration "cost-saving" initiatives:	
(Includes non-enactment of reduced time period for Vietnam vets to use GI Bill and certain other proposals which have been consistently rejected by Congress in the past)	900
III. Cost-of-loving increases:	
(a) Disability Compensation [1]	392.2
(b) GI Bill [2]	738.8
	1,131.0
IV. Legislation previously approved by Budget Committee and passed by one House of Congress:	
(a) S. 2635, Veterans and Survivors Pension Reform Act [3]	798.9
(b) Removal of undergraduate restriction on 9-month additional entitlement [4]	124.0
	923.0
V. Needed new legislative health care initiatives:	
(a) S. 2908, Veterans Omnibus Health Care Bill (which would focus health care resources on service-connected disabled vets)	106.0
(b) H.R. 3348 (exchange of medical information	4.0
(c) Extension of P.L. 94-123 (VA Physician Pay Comparability Act)	6.0
	116.0
VI. Needed additional appropriations:	
(a) Health care (to maintain existing health care caseload levels)	114.3
(b) General operating expenses (to facilitate collection of educational overpayments)	30.0
	144.0
Total	20,414

FOOTNOTES

[1] Compensation. From August 1, 1975 (effective date of Public Law 93-71) through December 31, 1975, the change in the Consumer Price Index was 160.6 to 166.3, a cost-of-living increase of 3.55%. Utilizing the President's assumed annual 1976 inflation rate of 5.9% and adjusting the assumed inflation rate for the 9-month period from January 1, 1976 to October 1, 1976 the increase in the cost of living for the period should be 4.42%. Thus the increase in the cost of living from August 1, 1975 to October 1, 1976 should total 7.97%. The Veterans' Affairs Committee, on the basis of cost estimates submitted by the Veterans' Administration, recommended an 8% cost-of-living increase, totaling $392.2 million.

[2] Education. From September 1, 1974 (effective date of Public Law 93-508) through December 31, 1975, the change in the Consumer Price Index was 150.2 to 166.3, a cost-of-living increase of 10.72%. Utilizing the President's assumed annual 1976 inflation rate of 5.9% and adjusting the assumed inflation rate for the 9-month period from January 1, 1976 to October 1, 1976, the increase in the cost of living for the period should be 4.42%. Thus, the increase in the cost of living from September 1, 1974 through October 1, 1976 should total 15.14%. The Veterans' Affairs Committee, on the basis of cost estimates submitted by the Veterans' Administration, recommended a 15% cost-of-living increase, totaling $738.8 million.

[3] The Senate Budget Committee unanimously approved S. Res. 322 providing a waiver of the Congressional Budget Act on December 11, 1975, in regard to the Pension Reform Act. S. Res. 322 and S. 2635 unanimously passed the Senate on December 15, 1975.

[4] The House of Representatives passed H.R. 9576 on October 6, 1975.

Mr. CRANSTON. What we have on this chart is critical and prudent spending needs totaling $20.4 billion. We are asking for $20.1 billion in our amendment because we believe we should and must dig and squeeze to get expenditures down. But we cannot work miracles. And the Budget Committee $19.3 billion outlay level would require either a miracle, or major surgery to cut out either pension reform or health care improvement or make drastic reductions in cost-of-living increases. These are cruel and unfair choices for the Nation's 29 million veterans and their 70 million dependents.

I urge the adoption of our amendment.

Mr. MUSKIE. Mr. President, I yield myself such time as I may require to discuss this amendment.

First of all, I express my appreciation to the distinguished Senator from California for his dedicated and hard work in the committee over the past year. He announced his own commitment to the process; I will reaffirm his commitment. He has been responsible, he is hard working, he has done his homework, and when he pursues an objective, as he does in connection with this amendment, he does it objectively, without recrimination of any kind, and with dedication to the objective he seeks. So it is a pleasure to work with him. That is my private judgment.

Mr. CRANSTON. I thank the Senator very much.

Mr. MUSKIE. With respect to this amendment, let me put it in some perspective, Mr. President. First of all, let me repeat what has been said on this floor several times this evening: this is not a line item budget. We undertake, as required by law, to set an overall ceiling on spending, and then we are required by law this year to break this overall spending limit down into the 17 functions of the budget.

In the case of this function, which includes veterans' programs, we settled on $20 billion in budget authority and $19.3 billion in outlays for fiscal 1977. We do not say what programs shall make up that total. It is for the authorizing committees and the Appropriations Committee to decide how those funds will be split up among the various programs, activities, and objectives in that function.

We are not, I repeat, a line item committee. It is true that in our discussions we discuss the principal components of these functions, so that we may have an understanding of what kinds of priorities we ought to have in mind when we set the overall figure; but the appropriate committees and then the Congress itself will fill in the details in the course of this legislation, the details under those overall numbers, $20 billion and $19.3 billion.

So we do not exclude the programs that the distinguished Senator from California has expressed concern about. We have said nothing or mandated nothing specifically about pension reform legislation or the GI bill and the benefit entitlement period. We have not specified what the law should say with respect to those program objectives. We have set overall dollar limits, and it is for the Congress subsequently to tell us what shall be the details.

With respect to those overall dollar limits, let me put this in perspective. First of all, those limits are current policy. In other words, they represent the cost in 1977 of continuing the programs and policies in this function. They do not cut back. There is a technical adjustment downward of about $400 million that does not represent any cut in current services. I shall be glad to explain that in more detail later. But what we have with the overall numbers is current policy, no cuts.

Those numbers, on the outlay side, are $2.1 billion higher than the President's budget for this function. Two point one billion dollars higher. The outlay number is $1.1 billion higher than the House number for this same function, and it is $1.7 billion higher than the Senate Appropriations Committee recommendation for veterans' benefits and services.

Those are substantial additional sums. May I say this in addition about our overall level: veterans' compensation, veterans' pensions, and readjustment benefit levels are not indexed for price increases as are some Federal programs; but current policy, as we have identified it and defined it in our budget, nevertheless includes estimated increases related to the consumer price index for each of these programs. In other words, there is a substantial inflation factor built into these programs, even though we are not required to do so by current law.

Inflation adjustments were also made in current policy estimates for other existing programs. All of the inflation adjustments in the committee mark reflect economic assumptions made by the Congressional Budget Office early this year. If we accept the latest CBO economic assumptions, an inflation cushion of $350 million has been provided for the function; and if in addition we accept a technical adjustment assumed by the President, the accelerated collection of readjustment benefit overpayments, there is an additional cushion of $100 million provided by the committee mark. The Veterans' Committee has discretion in the allocation of these sums.

Those cushions add up to about $450 million. We do not suggest in this budget resolution how that should be allocated. Surely, it is available for allocation, as the Veterans' Committee chooses, for the purposes that the distinguished Senator from California is interested in. But that is a decision for that committee to recommend to the Senate, it is a decision for the Senate to make, and then it is a decision for Congress to make. But there is this kind of cushion in these overall dollar totals.

The Budget Committee has considered the fact that Congress is considering legislation for both needed reform and long-term savings in pension and readjustment benefit programs. The Senate passed a pension reform bill last year. It is pending in the House of Representatives. There is no clear indication at the moment as to what its fate will be. If in fact it is enacted by the House, and if its cost is similar to that which is reflected in the Senate bill, the cushions I have spoken of—and perhaps there are others in the function—are available for application to that legislation.

I might point out, Mr. President, that if the effective date of the pension reform bill is deferred until next January 1, the cost of the pension reform bill will be reduced by $150. Next January 1 might not be too far from the date that the House and Congress, as a whole, finally acts upon it; therefore, we might save another $150 million. So there is plenty of flexibility in these numbers to include something other than the specific programs that have been benefiting veterans up to this time. The Budget Committee has not said no to any of the program objectives that Senator CRANSTON has outlined here today. Rather, we have said that we are providing an overall number as to both budget authority and outlays that will accommodate current services, an inflation factor, and provide some cushion beyond that for the consideration of additional legislation.

I think that the Senator's amendment provides also for the expansion of medical care for veterans.

Am I correct in that?

Mr. CRANSTON. It provides for improvements in medical care, not really expansion.

Mr. MUSKIE. Some improvement.

Mr. CRANSTON. One of the bills that we have been working on and which I believe will be enacted before too long would place greater stress on outpatient care of veterans. That can lead to sav-

ings if we get veterans out of the hospitals and into methods of care which avoid the great expense of unnecessary hospitalization.

Mr. MUSKIE. On that point, may I say that the Budget Committee did not allow anywhere in this budget for the growth or expansion of medical care in other functional areas, recognizing the need to control costs and to make major changes in the Nation's health care delivery system. It is a problem with which we have got to deal. And I hope we will continue to work on it, but we have not made budget accommodations for it.

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

Mr. MUSKIE. Yes, I yield to the Senator from California.

Mr. CRANSTON. If the Senator will yield, I would just like to expand a little bit on the medical care aspect. The pending legislation, which our amendment would permit to be funded to some extent at least, represents 3 years of oversight, planning, and intensive work by the Committee on Veterans' Affairs and its staff. I believe that it amounts to an extremely important attempt to focus resources on service-connected care and to correct certain rigid statutory eligibility standards impairing effective patient care in VA hospitals. The VA needs authority to provide care for seriously disabled veterans. In the long run, obviously that can be a savings even though it does cause some additional expense. The VA needs authority for readjustment counseling for young veterans, family counseling in certain areas, and out-patient and halfway house, alcoholism and drug abuse rehabilitation programs. The bill meets those needs. Those are steps that can lead to very substantial savings not only in terms of dollars but also in terms of human tragedy.

If this pending amendment is not adopted, we may have great difficulty, I am afraid, in achieving these needed reforms.

Further in the medical care area, the bulk of our appropriations recommendation deals with providing necessary staff to meet minimal staffing levels to provide care for increased in-patient and out-patient workloads that are already being realized in the current fiscal year—right now.

Mr. MUSKIE. In closing, Mr. President, may I repeat that what we have done with respect to all functions, including this one function, 700, is to set as required by law overall ceilings for budget authority and for outlays. With respect to this function we have set those ceilings at current policy which means a continuation present policies, programs, and activities, including an inflation factor, even when we are not required to do so under current law.

In addition, I have pointed out flexibility in these numbers and possible cushions that are available for the consideration of policy initiatives that Congress may wish to take.

Mr. President, may I remind the Senate the purpose of these ceilings is to exert pressure on Congress to live within them. The setting of these ceilings does not mean that somewhere down the road in this legislative session Congress cannot change a ceiling for good and sufficient reason. But if the ceilings are not such as to exert pressure for savings, we will never achieve control of the budget, and we will never achieve a balanced budget.

Every one of these functions can come to the Senate and argue that the ceilings are unrealistic or too low. Let me remind the Senate that the committees of the Senate recommended to us programs totaling $439.7 billion in outlays for this year. I am sure that they felt just as strongly about those recommendations as the Senator and the Committee on Veterans' Affairs do about this function. But if we are to adopt a policy of granting everything that can be justified in terms of merits at this point, then we will have not an outlay ceiling of $412.6 billion but an outlay ceiling of $439.7 billion.

I think we have an obligation to try to live under these functional totals, realizing that we have the option under the Budget Reform Act to make specific spending decisions that will depart from those ceilings if we choose to do so.

And if we choose to do so, when we get to the second concurrent resolution next fall, we can adjust these targets to accommodate the changes that we nave mandated. But if we make no effort at all in this first concurrent resolution to generate pressure for savings, weeding out lower priority programs, and eliminating waste, then we are simply going to see an escalating kind of expenditure on the part of the Federal Government that will know no end.

I remind the Senate that the outlay ceiling for the current fiscal year is $357 billion. That is $37 billion under the outlay ceiling that this budget resolution recommends to the Senate, and it is $65 billion under what the committees of the Senate have recommended to the Budget Committee. That is a range within which surely it ought to be possible for us to set a ceiling that is responsible and that deals with high priority needs that ought not to be neglected. If we are only going to look at the numbers at the top, we are going to fill up to it. We all know that. If we set a ceiling of $420 billion, Congress would move up to the ceiling. If we set a ceiling of $430 billion, Congress would move up to $430 billion. If we set a ceiling of $440 billion, Congress would move up to $440 billion.

I have been here 18 years. I do not know whose law I would subscribe this as being, but that is what would happen. We have given the Senate a ceiling of $412 billion, and we have given comparable ceilings across the board in every function. For many functions we have established the ceiling at current policy levels. May I remind the Senate that current policy for outlays is $424 billion. We have cut below that figure because we take the view that unless there is that kind of pressure we will never get Federal spending under control.

So I say to the Senate, I do not disagree as to the merit of the programs which the Senator from California has asked us to consider. I do not reject them at this point. I happen to believe that they conceivably can be accommodated under the budget totals that we have recommended.

If we vote on the Senator's amendment and defeat it, then I suppose we will be assumed to have rejected them. The Senator takes his risk on that score. I do not think this budget resolution rejects them. I do not believe it is necessary to reject them at this time. There is flexibility both in the consideration of the legislation which he has brought before us and any subsequent consideration of the budget which may make is possible for us to accommodate them. But if that decision be forced now, by an increase in the functional totals beyond what I believe to be necessary at this time, consistent with the obligations of the congressional budget process, then I would have to oppose the amendment—not because I oppose the programs the Senator uses as justification for his amendment, but because I do not think it is necessary at this time to raise the functional ceilings and thus invite increased Federal spending and a larger deficit.

I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I just want to speak a moment, because the hour is late, and I understand that the vote will not occur until tomorrow morning. I understand that was agreed to, with the hope that perhaps our colleague, the Senator from California, would have time to corral the Senators and that the veterans groups would all call in and enough pressure would be brought so that we could adopt his amendment tomorrow, whereas we probably would not do so this evening. I hope, on the contrary, that the distinguished Senator from California will reconsider overnight and perhaps want to withdraw this amendment in the morning.

I join in the chairman's recognition of Senator CRANSTON's sincerity and dedication. We sit side by side on the Budget Committee. Our chairman has worked day and night. He has worked us until 11 o'clock at night. We have been canceling things all year long. We have kept up with the pace that the chairman has set and the law has set and the pace that we, in a sense, have set for ourselves. No one has been more loyal and harder working than the Senator from California.

However, having been a comptroller, I think it is really sad, in a sense, that the very first thing out of the box is an amendment that comes from within the membership of the Budget Committee to bust the budget. If we cannot work together and bring about a self-discipline within the Budget Committee that can work its will within the membership, I do not see how we are ever going to hold the line.

Of course, one of the most sensitive subjects is that of veterans' affairs. All of us are veterans, and we never can do enough to show our gratitude; and we never, in a sense, really will provide enough, and we know that. Yet, we do our dead level best.

The committee is ably led by Senator HARTKE and my senior colleague, Senator THURMOND, the ranking minority member. It has been led by them for years,

and they have not been puny or denying as to the needs of the veterans.

I happen to know, as a member of the Appropriations Committee, that the recommendation to the Budget Committee by the Appropriations Committee for funding of veterans programs was not treated casually by Senator PROXMIRE. He serves as the chairman of our Independent Agencies Subcommittee, along with Senator PASTORE, Senator STENNIS, Senator MANSFIELD, who is a veteran of all three services, Senator BAYH, Senator CHILES, and Senator HUDDLESTON, on the majority side. We have on the minority those who have been considerate of appropriations: Senator MATHIAS, Senator CASE, Senator FONG, Senator BROOKE and Senator THURMOND.

It is interesting to watch how they work. I work on these other subcommittees.

We were all admonished by Senator MCCLELLAN to go back and hold the line. We are deficit financing. Inflation was now going to raise its head as an enemy, along with unemployment, if we did not set a measure down in a meaningful way, to cut back, if you please, the $75 billion deficit on current policy, and we all tried our dead-level best to do that.

Looking at the President's provision, they concluded in their recommendation—and they checked this out with the Veterans' Committee, on which the distinguished Senator from California serves.

This subcommittee of the Appropriations Committee recommended an increase of $360 million in budget authority for the Veterans' Administration. Of this increase, $350 million is attributable to the likelihood that Congress will not only extend pension increase legislation scheduled to expire September 30, 1976, but also provide a further cost-of-living increase. An additional $10 million increase is recommended to allow the subcommittee the opportunity to consider the initiation of worthwhile major hospital construction projects.

We did even more. I had never worked with a more able staff than that of the Budget Committee. I do not know where we found them. The record of success thus far, in large measure, goes to the staff, because they worked with those who have been working for years in the authorizing and appropriations committees, to get a feel for these programs. They have come from some of those committees. They bring a tremendous expertise.

Someone on the conservative side in the Senate said,

> Heavens, above, you already are above the President's budget $2.1 billion; but that is not bad enough. You even found, with all our House Members, $1.1 billion more than the House Budget Committee. Then, when it came to the Appropriations Committee, having considered that, you are $1.7 billion over.

Someone could well have offered an amendment here and said, "How do you expect us to hold the line when you are even going above your Appropriations Committee by $1.7 billion?"

Instead, the Senator from California says, "No, let's have $800 million more."

In all candor, we are not going to hold that with the House. We know that.

I am glad that we do not have the full membership present in the Senate Chamber. I am glad not many are here to hear us, the members of the Budget Committee. It is a little family dispute. But if we are not going to protect the budget on this matter, how can we hold the line? There are others with worthy arguments.

The Senator says "defense," and this, to me, is defense. These are veterans of defense. We cut the regular defense pay back to the pay cap of 4.7 percent in order to save $2.2 billion. We have all kinds of adjustments—$4.5 billion there—and recommend starting a contributory pension plan to try to reorganize this whole thing with respect to defense costs.

I ask this of the Senator: He knows that everybody in Congress wants to do the right thing by the veterans, and the veteran is being eaten up by inflation as much as anybody else. We have cut some $10 billion from current policy in trying to mark up this budget over a week of days and nights. We have done pretty well to come out at the current policy level for veterans, at $2 billion over the President's figure and $1.7 billion over that of the Appropriations Committee.

Let us try to argue to hold that, because we are $1.1 billion over that of the House. We are going to have a tough time when we meet with our friend BROCK ADAMS and his House committee. Let us try, in a unanimous fashion, to get behind our own Budget Committee and hold the line for our veterans' figure, which we all know is very deserving. But let us not start at the beginning kickoff with $800 million added on because of these very worthy and meaningful programs that we all hope to put in.

I believe we have gone far over. We have done the best we can for the ensuing fiscal year in this budget, commencing in October. It is hard. I do not think that we ought to act in any way that we are too conservative or too generous with the veterans' part of this particular budget. In essence, we could really have somebody walk in here and try to cut it back. I ask my friend from California to sleep on that a little as a form of control.

The Senator knows how it is. We are all denying a lot of these programs that we wanted, but if we do not set the example—I am on the State, Justice, Commerce Subcommittee. My friend from Indiana wants more money for criminal justice and juveniles. He already has a million dollar one in here. I tried to tell him as politely as I know how, I am a cosponsor of the program and everything else, but we cannot go that way.

We have other changes sought by my friend from Louisiana (Mr. LONG). We have a $2 billion one in here.

If we are going to start raising spending on the one hand and cutting down the revenues on the other hand, I think we have really started down the wrong road.

I hope that we can explain it as I did to my veterans. The VFW State commander, one of the best friends I have, had me on the telephone all last night. When he realized how well we had done, he said. "We are all calling around. I will tell my people let us not call around. Let us give them a little peace and quiet tonight and help them stabilize this budget tomorrow morning and get off on the right foot."

Mr. CRANSTON. Mr. President, having worked on the various legislative matters that are relevant to this amendment for some 3 years in great detail, I rather doubt that I shall change my mind while I am sound asleep tonight.

I do want to say to my friend from South Carolina and my friend from Maine that I do not want to see us break the budget. I do not want to see an increase in the deficit. I plan to support offsetting cuts in the proposed budget so that if this amendment is adopted, my vote will be there to cut an equivalent or greater amount out somewhere else so that we do not increase the deficit.

As comptroller of the State of California and in business, I learned the virtue of short-term investments that produce long-range profits or savings. That is really what we are talking about in this particular amendment.

As to the solidarity of the Committee on the Budget, last year I felt it was very important that Budget Committee members stick together on the floor. The chairman and the ranking Republican member (Mr. BELLMON) urged that we do that when the resolution was adopted a year ago when it was the first experiment with this fledgling new budget process. I opposed certain amendments offered then, specifically an amendment that would have increased money for the unemployed Americans, for job programs for them, because of the need to insure that the budget process got off to a successful start and was not upset in any serious way in that first year. I think we are in a somewhat different circumstance now. We have had a year of successful experience.

After all, the budget process is, most of all, one relating to fiscal responsibility and to the determination of priorities in Government programs and expenditures, and some of us simply have somewhat different sets of priorities. The chairman (Mr. MUSKIE) laid claim, when speaking to the Committee on the Budget this year just before we issued our report, that he did not think it was as important that year that we all stand behind the exact report, the exact figures that came out from the committee. He repeated much the same thing this afternoon on the floor when he said, among other things, in reference to the figures reported:

> I expect some of them may be amended. That is fine with me. The budget resolution is not Holy Writ. It is simply a reference point to help the Senate express its will.

This amendment provides an opportunity for the Senate to express its will on one very important part of the budget resolution and of the critical programs of the Federal Government.

The Senator from Maine said that if we granted every request for more money, we would come up with some huge total that might add to spending this year. Of course, we should not do this. We should exercise judgment. I have exercised mine. Senator THURMON, Senator

RANDOLPH, and Senator HARTKE have exercised theirs in deciding to support this particular amendment, and have joined with me in offering it.

The Veterans' Affairs Committee did not approve every request that came before us. Far from it. Some very serious, strongly supported programs totaling over $5 billion were not recommended by the Veterans' Committee. What we did in the March 15 report was exercise our judgment in offering what we felt was wise and necessary. Now, this amendment represents further reductions we have made after the action of the Budget Committee.

We are not by any means supporting everything that was supported by the Veterans' Committee. This amendment represents a lesser figure. But we should each exercise our judgments and grant requests, if that is our will, and turn them down, if that is our will, now, not next September when another resolution is before us, because we can lose some very valuable time, retard some very valuable progress, and maybe miss some very important savings in respect to this particular amendment if we do not adopt it now.

Before closing—I know it is the desire of all present that we end shortly—I wish to comment on just one other aspect of the distinguished chairman's statement in response to my opening statement in regard to this amendment, and then go through a few figures with him.

He indicated that we can accommodate pension reform and accommodate cost of living increases within the figure offered to us in the budget resolution. I have to differ on that point. I do not see how we can.

Mr. MUSKIE. Will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. MUSKIE. I do not think I said that we could. What I said was that we should try. There is evidence of flexibility under these numbers that we ought not to ignore as we pursue that objective. I cannot guarantee, as the Senator knows, what line items will be included in any function. The guiding principle of the Committee on the Budget is that we do not try to make up the line items.

The figures I gave the Senator about possible flexibility in the budget were given to me by Sid Brown, who is our very able numbers man, as the Senator knows. Those figures represent an inflation factor that is built into the committee mark that could be made available for legislative initiatives. We ought to take advantage of whatever flexibility there is in the function in order to include additional high-priority items. That is really the way I would put the point.

Mr. CRANSTON. Let me say that I do not see the point in trying to do something that simply cannot be done. We have gone through these figures and we find that we cannot accommodate these programs. The chairman has seemed to contradict the very words of the committee report. The committee report says:

> Current policy includes estimated increases related to the consumer price index for each of these programs. Inflation adjustments have also been made in current policy estimates for other existing veterans programs.
>
> The committee considered the fact that Congress is considering legislation, both for needed reforms and long-term savings in pension and readjustment benefit programs. It is the committee's view that funding for such an initiative can—I emphasize "can"—be accommodated within current policy totals.

If we go through the figures, I do not see how that "can" can be substantiated. The report tries to have it both ways—to be all things to all veterans, as it were. But the hard figures refute any such assumptions.

Mr. MUSKIE. I am surprised to hear the Senator make a statement like that, because I heard him tightly examine numbers that the Defense Department, for example, considers wholly right, untouchable, immovable, and unsqueezable in terms of getting at waste. The Senator and I know that they can be squeezed. We have learned in more than a year—a year and a half—of experience on the Committee on the Budget the numbers that are brought to us are not locked in concrete, they can be improved upon. There are savings that can be achieved.

Mr. CRANSTON. We are not talking about administration proposals here.

Mr. MUSKIE. No, I am talking about any proposals. I do not think that our numbers are necessarily any harder or firmer or more accurate or more precisely anticipatory of the future than the administration's.

When we left the Senate with the first concurrent resolution last year we had no assurance that the numbers we had adopted would be adequate to fund all of the program decisions that the Congress would make in the year that has passed since that time. But somehow it has been done, and we are pretty close to the mark without specifically providing for every program that has since been supported. Frankly, I say to the Senator that I think he makes a mistake in risking these programs by offering an amendment that raises the implication that these specific programs are at issue here.

I do not think they are at issue in the budget. As a matter of fact, the language the Senator quoted from the report appears to be a strong endorsement of the programs because the language says they can be accommodated.

Now the Senator is saying with his amendment that they cannot. So if the Senate defeats the Senator's amendment then the Senate will have said in disagreement with the Budget Committee that these numbers cannot accommodate these programs.

Mr. CRANSTON. These programs are now being jeopardized; they are put in risk by the very figures that have come out of the Budget Committee.

Mr. MUSKIE. I know the Senator believes that or he would not be offering the amendment.

Mr. CRANSTON. Of course.

Mr. MUSKIE. I do not believe it, and so I see no reason to put these programs at risk when one takes into account in addition what is the fact, what is the law, that if those programs cannot be accommodated under these numbers the Senate can change its mind about these totals down the road.

But with that kind of an approval, implied approval, in the committee report, it seems to me that the Senator's objective is very well-served, and he could use that language when the legislation comes before the Senate to argue for a rise in the ceiling if the ceiling at that point will not accommodate the programs.

Mr. CRANSTON. I know that we do not deal with line items in the Budget Committee and in the budget resolution. But I think it makes a mockery of the budget process to suggest that we can do a large number of things within figures for which there is simply not room to accommodate those programs. And then to seem to invite us to go ahead and do them—or try to do them—with the expectation that we can raise the levels in the second concurrent resolution.

I would just like to run briefly through a few figures, and then we will cease so far as I am concerned.

The President's budget submitted to us for veterans affairs, in the veterans' category, was $17.2 billion in outlays. Seventy-four percent of veterans' appropriations go for transfer payments to individual veterans and their dependents. It is tough to find room for much of a cut when that is the starting point for the budget. Maybe a little bit of fat can be found in it. We have been trying to do that for a substantial period of time. We have found some. How much is left I do not know.

Then to the $17.2 Presidential request you have to add $900 million because the President, in his budget, took credit for certain cost-saving initiatives, as he has in several other categories of the budget, that are simply not going to occur. His cost-saving initiatives include enactment of a reduced time period for Vietnam-era veterans to use the GI bill, and certain other proposals which have consistently been rejected by Congress in the past. Therefore, there is no reason to assume we are going to accomplish them at this time.

Mr. MUSKIE. I have not had a chance, of course, to look at the Senator's numbers list, but just to make my point out of the Senator's own list, in IV, our legislation previously approved by the Budget Committee and passed by one House of Congress, S. 2635, the Veterans and Survivors' Pension Reform Act, $798.9 million.

Two things about that number: One, there is an inflation factor in that number that is higher than we now think it is necessary to assume. That is going to provide dollars. Overall in the function I have given the Senator a figure of $350 million, so there is more inflation money in there than you need to assume, so that gives you something to add to something else.

Mr. CRANSTON. Fifty million dollars at most from that item. And we have in our amendment assumed the need to cut $300 million.

Mr. MUSKIE. But, second, that $798.9 million figure assumes an effective date of October 1, 1977.

Now, the Senator may have a crystal ball that tells him that that date is fixed in holy writ, but I suspect that those who are interested in the legislation would be happy if the bill became effective January 1, 1977. A savings of $150 million would result from this change in the effective date of the legislation.

Now, what is wrong with using this kind of flexibility to serve the purpose of both budgetary prudence and a worthwhile program?

Mr. CRANSTON. That could save $150 million. We have cut $300 million in our amendment. You have not reached that figure yet.

Mr. MUSKIE. No, I am not going to provide a long list of specific items. The Senator has offered me this list to indicate how tough it is to save any money for veterans' programs. And without having had a chance to examine it in detail, I have put my finger on what appears to be a possible reduction in the estimate for one item on that list.

Why does the Senator put at risk these programs to which he is so deeply committed? What I am saying to him is that we do not have to decide whether or not those programs ought to be defended now. I am saying is that there is—we can find—a considerable amount of money in these numbers to help fund them, and that in other ways we may be able to live within the committee mark.

Why then does the Senator force a decision on those specific programs now when the decision could be negative, and thus put the programs in greater jeopardy than the Budget Committee has in its resolution?

Mr. CRANSTON. Well, the Senator has stated, and this Senator agrees, and I am sure all other Senators agree, that there are no immune items in what we are considering. Where funds can be found for needed programs, they can be found. But it is very difficult, and if we find funds for certain of these programs, they will be found, they will be carried forward within the final figure. But it is obviously impossible to come up with anything like $1.1 billion, which is the difference between our estimates and the Budget Committee recommended outlay level.

Mr. MUSKIE. Of course, if the Senator keeps raising his figure, it becomes harder and harder for me to find the money.

Mr. CRANSTON. I am not raising any figures. Those are the figures I discussed in the Budget Committee, and the figures in the chart. The amendment calls for lesser figures, and we can squeeze some and we may have to.

Mr. MUSKIE. The Senator is offering a $800 million amendment which he says is abundant to fund the program. Then he has challenged me to find money to meet it. Then the Senator raises the target to $1.1 billion. I cannot hit a moving target.

Mr. CRANSTON. Leave it at $800 million and see if you can hit $800 million.

Mr. MUSKIE. What the Senator is asking me to do is what he knows perfectly well I will not do, and that is fill in the line items in this function. I will not do it because I do not think it is necessary. I do not think that is the nature of this budget process.

I think we have provided overall numbers and, remember, that for the budget resolution as a whole we are $9 billion below current policy. In this function we are at current policy. So we have been tougher on many other functions than we have been on this one.

I repeat to the Senator I think he has got a legislative record, if he drops this amendment, that goes farther to advance the programs he is advocating than a defeat on this amendment could possibly do.

Mr. CRANSTON. Well, all I will say in conclusion is the Senator cannot find the figures and I cannot find the figures. They cannot be found within the figure the Budget Committee has reported.

Mr. MUSKIE. In addition, may I say to the Senator that, we have mandated savings in several other places. We have not specified where the savings should be found.

The distinguished chairman of the Finance Committee has an amendment at the desk to wipe out some of those savings we have mandated. I assume he will challenge me to specify in detail where they can be found, and I will not be able to. I can suggest some directions. That is our responsibility. But I do not agree with the Senator that I or any member of the Budget Committee has a responsibility to line item this budget or to find every penny to fund every worthwhile policy initiative that we have expressed an interest in.

If we were to be required to do that the only way we could meet that challenge would be either to approve the $439.7 billion outlay number or simply submit to the Senate this year's outlay total, $376 billion, and say to the Congress, "Now, it is up to you. Above that the sky is the limit."

What the Senator is asking me to do is to identify every penny for every policy initiative that has not been finally decided in the Congress, but which we have every right to consider and enact within the budgetary constraints we have laid down.

The Senator knows perfectly well that is not the nature of our responsibility.

Mr. CRANSTON. No; and in discussing cuts that were made in other categories, there was a theory examined, discussed, weighed, urged in the Budget Committee at the time a target was agreed to. There was no such process gone through, there was no justification presented for this reduction when it was moved in committee from what has been recommended by the Veterans' Affairs Committee.

I would just also add that the actual cost-of-living increases are something that are rather easy to figure out, and should be rather automatic, if we wish to treat veterans like other members of our society.

Mr. MUSKIE. May I say to the Senator on that point that we are the only agency, of the White House, of the House, and of Appropriations Committee, we are the only agency which has given cost-of-living increases.

What is the Senator implying? Our numbers included those.

Mr. CRANSTON. They are not adequate today for the cost-of-living increase in disability compensation, and costs in GI bill as well as for pension reform.

The other point I was starting to make, the other major items the Veterans' Affairs Committee recommended constitute not just ideas dreamed up by members of the committee; they represent legislation passed by either the Senate or the House. So apparently, there is substantial support for these programs, not just legislation we have expressed an interest in.

Mr. MUSKIE. Did I say that they were ideas just dreamed up?

The Senator read the language from the committee report.

The report expresses a strong sympathy for the programs. Why does the Senator insist on making a case against his own objective?

And also with respect to specific program items again, of course, we did not go through every piece of substantive legislation that is likely to emerge out of this Congress.

Thanks to the Senator's interest, to his knowledge and to his background. I think we got into more detail in this function than other functions.

The same is true of the education function in which the distinguished Senator from Minnesota is such an expert, and in that function we went into more detail than in many other cases because he was interested.

And the Senator from South Carolina in the natural resources, energy and environmental function, because of his background in the energy field, he went into detail.

In no case did we go into greater detail than we did in the veterans' function.

But we do not write legislation, we do not line item the committee work.

Mr. President, I think we ought to save a little time tomorrow to continue this discussion. I think it has been a good one. The record is there. The Senator from California, as always, has made a good record for his case, even though I disagree with it.

So I hope our colleagues will have something interesting and enlightening to read in the morning before they come in to vote.

I express my appreciation to the Senator from California and the Senator from South Carolina in helping put this record together this evening, and I will see them in the morning.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9 a.m.

After the two leaders or their designees have been recognized under the standing order the Senate will resume consideration of the then-unfinished business, Senate Concurrent Resolution 109, the concurrent resolution setting forth the Congressional Budget for the U.S. Government for fiscal year 1977.

Rollcall votes are expected during the

day, and I feel that there is good reason to anticipate that the first rollcall vote could occur as early as 10 a.m.

The distinguished majority leader has indicated that the Senate may be in late tomorrow, so it is hoped that final action can be taken on the budget resolution tomorrow.

Again, a rollcall vote may occur as early as 10 a.m., and other rollcall votes are anticipated throughout the day.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MUSKIE. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 8:45 p.m., the Senate adjourned until tomorrow, Friday, April 9, 1976, at 9 a.m.

EXTENSIONS OF REMARKS

REPEAL OF TRUCK AND BUS EXCISE TAXES

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Thursday, April 8, 1976

Mr. GRIFFIN. Mr. President, recently I appeared before the Senate Committee on Finance to urge repeal of the Federal excise tax still levied on trucks and buses. Inclusion of such a repealer as part of the tax reform legislation now under consideration would serve importantly to stimulate new sales and more jobs in a segment of the motor vehicle industry that still suffers from a deep recession.

Whatever justification once existed for these particular taxes, they now represent the last vestiges of emergency and temporary excise taxes enacted during the Great Depression and World War II. Congress has already repealed excise taxes levied on everything from refrigerators to jewelry. Federal excise taxes on automobiles and light trucks were repealed several years ago.

For a new truck, the costly excise tax adds between $2,500 and $3,000 to the price of a rig—a major factor in causing heavy truck sales to plummet by 40 percent in 1975 and a further 20 percent in the first 3 months of this year.

Mr. President, I ask unanimous consent that the text of my statement before the Finance Committee be printed in the RECORD.

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

STATEMENT OF SENATOR ROBERT P. GRIFFIN

REPEAL OF TRUCK AND BUS EXCISE TAXES

Mr. Chairman and members of the Committee: I appreciate the opportunity to testify today in support of legislation to repeal the 10 per cent Federal excise tax on new trucks and buses, and the 8 per cent tax on parts and accessories for those motor vehicles.

Just over a year ago, on March 6, 1975, I joined with my distinguished colleague Senator Hart in introducing a bill, S. 974, to repeal these discriminatory excise taxes. At that time, sales of both autos and trucks were down sharply. And the unemployment rate in the auto industry was nearly 25 per cent—the highest jobless rate of any major industry in the United States.

It will be recalled that your Committee responded appropriately by incorporating this proposal as an amendment to the tax reduction legislation. The Committee-approved amendment was passed by the Senate but was dropped in the House-Senate Conference.

Today, while the economic picture is generally brighter for the auto industry as a whole and its workers, the same cannot be said for that segment of the industry still subject to these excise taxes. In fact, during 1975, truck sales dropped 40 per cent below 1974 levels. One major company—Diamond Reo—went out of business—which left nearly 2,000 jobless. And truck sales are still down. In the first three months of this year, heavy truck sales declined more than 20 per cent from the comparable period in 1975.

It will be recalled that, in 1971, Congress repealed the remaining 7 per cent Federal excise tax on passenger automobiles. That action stimulated higher sales and generated thousands of jobs in the auto industry.

If the remaining excise tax on trucks and parts were to be repealed now, the action would provide a needed "shot in the arm," not only for Michigan—which still suffers from an unemployment rate of about 13 per cent—but also for many other States. In fact, in California, Illinois, Indiana, Missouri, North Carolina, Ohio, Pennsylvania and Texas, there are more workers employed in manufacturing bodies and trailers for trucks and buses than in my own state of Michigan.

Throughout the country there are 895 businesses, employing more than 63,000 workers, involved just in the manufacture of truck trailers and bodies for trucks and buses. And more than 150,000 workers are engaged in all phases of truck and bus production, including the manufacture of parts, accessories and related equipment. All of these companies and their workers have been severely hurt by the sales decline in their part of the industry.

Furthermore, to remove the excise tax and reduce the purchase price of trucks, buses and parts, would contribute to the progress that has already been made in slowing the inflation rate. And lowering the purchase cost of these vehicles would be particularly helpful to small businessmen, including farmers and independent owner-operators of semi-trailer rigs, who have been hard hit by the recent bout with inflation.

Whatever justification once existed for these taxes, it has long since passed. They are the last vestiges of the "emergency and temporary" excise taxes enacted during the Great Depression and World War II.

Congress has already repealed excise taxes levied on everything from refrigerators to jewelry. And we have repealed excise taxes on all other forms of transportation, including motorcycles, local transit buses, refuse collection truck assemblies, automobiles, light-duty trucks and automobile parts.

In the tax bill now pending before this Committee—H.R. 6860—the House has included provisions to repeal the excise tax on intercity buses. The time has come, I suggest, to complete the reform by repealing the taxes on the sale of heavy-duty trucks and truck and bus parts.

These taxes have been dedicated to the Highway Trust Fund, but truck and bus operators are subject to fuel taxes and other user charges, like everyone else. Of course, all highway users should pay their fair share of the costs of maintaining this system, but it is not fair to continue a discriminatory sales tax, which applies to no other form of transportation.

Furthermore, the impact of repeal on the Highway Trust Fund would not be great. These taxes account for only about 10-11 per cent of Trust Fund revenues—and the Trust Fund has a surplus which has increased in recent years to more than $9 billion. Despite a slight revenue drop in FY 1976, due to the effects of the recession, the FY 1977 budget projects that the surplus will increase by nearly $200 million during the next fiscal year.

Mr. Chairman, I strongly urge that whatever tax legislation is reported by the Committee include provisions for the repeal of these excise taxes. This is a long-overdue tax reform measure which will stimulate employment and sales in an industry which is still suffering the effects of the past recession.

Thank you.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. FRENZEL. Mr. Speaker, I am cosponsoring today with several members of the Minnesota delegation the Consumer Communications Reform Act of 1976. This bill is identical to S. 3192 introduced by Senator HARTKE

My purpose in introducing this legislation is to encourage Congress to conduct a long overdue review of our telecommunications policy.

Congress has not carried out this kind of comprehensive review since enactment of the Communications Act of 1934. This act embodied the philosophy that telephone service should be readily available to most Americans at reasonable rates regardless of the cost of providing that service. In order to implement this policy, price averaging mechanisms were introduced to shift revenue from high volume, low-cost commercial and long-distance service to help pay for services to residential and rural customers. Without this kind of cross-subsidization it was felt that millions of Americans would find the cost of adequate telephone service prohibitive.

In a series of rulings over the past several years the Federal Communications Commission has sought to introduce competition into the telecommunications business. Competition is a good thing, but in this case it has some counterproductive aspects. Most of this competition quite naturally has tended to be concentrated in the more lucrative dense urban and interurban communication corridors. While this competition has had the salutary effect of reducing costs to some high volume customers, it has also tended to undermine the cost-averaging system.

Those critical of this new thrust maintain that this will soon begin to sharply reduce profits that are currently being used to hold down rates to residential and rural telephone customers.

Competition has also been thrust into the equipment aspect. Previously telephone companies provided and maintained all equipment. Now outsiders may provide equipment and phone companies are obliged to hook it up. That is a good idea in some respects, but, it does mean that phone companies can no longer guarantee the quality of equipment used in their systems.

There are obvious questions of equity and tradeoffs whether we adopt the competitive approach or maintain the current regulated monopoly system. It is difficult to impose competition on a monopoly system and expect both systems to deliver the best elements of each system. If after fully airing the issues, Congress chooses to abandon cost-averaging in favor of unfettered competition and pricing based on cost of services, then we should write this philosophy into law.

We should not permit a regulatory agency to back us into this posture by default. We have an obligation to fully consider these policy questions. We should set policy and let the FCC monitor our policy. We should not always be in the position of reacting to FEC policy. Hopefully the introduction of this legislation will serve as a catalyst for this review.

SOUTH JERSEY CHAMBER OF COMMERCE STATEMENT OF SOLID WASTE DISPOSAL

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. FORSYTHE. Mr. Speaker, solid waste disposal has been generating a great deal of interest in recent months. It is a problem that will be compounded as our population grows, and it is a problem that will have increasingly serious consequences for the Nation unless an adequate solution is discovered.

A substantial part of the recent hearings on solid waste disposal held by the Government Operations Subcommittee on Conservation, Energy, and Natural Resources has concentrated on the role of private industry and local government in handling solid waste disposal. These hearings provided much valuable information emphasizing that the major part of the initiative in developing viable solid waste management systems should come from industry and local governments rather than from the Federal Government.

I would like to provide for the information of my colleagues in the House, therefore, a recent statement about solid waste disposal by the South Jersey Chamber of Commerce. The detailed analysis of the chamber highlights the principal problems and available solutions, and makes recommendations as to action. The statement also incorporates a resolution of the AFL–CIO calling for attention to the problem of solid waste disposal. Such thoughtful discussions of this complex problem indicate the willingness of both business and labor to approach the issue without totally depending on the initiative of the Federal Government.

Such willingness to get involved with the problems facing the United States is particularly heartening at a time when we are becoming more and more aware of the true magnitude of those problems. I strongly commend the members of the South Jersey Chamber of Commerce for their farsightedness and initiative and recommend their statement to my colleagues in the House:

SOUTH JERSEY CHAMBER OF COMMERCE,
Pennsauken, N.J., February 24, 1976.

Hon. EDWIN B. FORSYTHE,
331 Cannon House Office Building,
Washington, D.C.

DEAR ED: For the cave dwellers, solid waste disposal was no problem. They just threw bones, broken spears, chipped stone tablets and worn-out animal skins into one corner of their cave. When the corner was full, they moved to another cave. Today, unfortunately, we don't have enough caves to practice this method of solid waste disposal.

As we expand our ability to discover and use the earth's resources to increase man's span of life and better his quality of life, we also cause problems in achieving this life.

Two of the principal problems are:

(a) What to do with our solid waste

(b) How to conserve the four basic resources: material, energy, manpower and money.

Conservation of these four resources must be conducted in an atmosphere of efficiency. It makes no conservational sense to spend $30 per ton for recycled glass when new glass is $20 per ton. The copper and lead industries, with 50 percent of output in recycled material, are good examples of production efficiency. So is the iron and steel industry where 31 percent of manufacture is in recycled materials. When efficient methods are made available, material will be recycled.

We believe, therefore, that any proposed solution to the solid waste problem must be efficient in conserving the four basic resources. What solutions are available? Basically, there are three:

(a) Dumping or land-fill

(b) Recycling

(c) Conversion to other material or energy

No single one of these approaches is the final answer to the solid waste problem; each has its own particular advantages and disadvantages.

Landfill is best for solid building waste, e.g., bricks, stone, concrete, macadam. Landfill is limited, however, and not particularly suitable for packaging materials and industrial waste.

Recycling is best when its efficiency is near the cost of new material. Efficiency here refers to the complete system of collection, storage, sorting, reshipping and controlling. Industrial solid waste, because it is usually readily collectable at a plant site and can usually be pre-separated, is a good source for efficient recycling.

Conversion is also becoming more economical. Using current technology, processing plants are developing efficiency in the recycling and conversion of solid waste into reusable material and energy. Generally, these plants consist of:

Unloading and storage facilities—storage to allow plant operation during interruption in solid waste collection;

Shredders—to make the waste manageable;

Magnetic separators—for ferrous metals;

Screening and air classification—for sorting material by weight;

Fiber reclamators—for paper and fiber sorting;

Incinerators and pyrolysis units—for generating heat and steam from the nonreclamable waste (mostly plastics);

Attendant pollution abatement equipment.

These plants are working now. In Europe, more than 100 plants are on-steam while in the United States, there are test plants in California, Massachusetts, and Missouri, and another is planned for New Jersey. With further use and development they will not only take care of our solid waste problem but will also help offset the energy shortage by producing heat and electricity.

On the basis that the positive alternative is preferable to the negative one, it is the position of the South Jersey Chamber of Commerce:

(a) To support legislation that:

Promotes the efficient disposal, recycling and conversion of solid waste;

Encourages development of solid waste technology; or

Stimulates private initiative in solving solid waste problems, and;

(b) To oppose legislation that:

Detracts from the quality of life;

Mandate "source reduction";

Limits the consumers choice of products;

Is inefficient in the use of the four resources: material, energy, manpower, and money; or

Stifles private initiative in its quest for solutions to solid waste problems.

The United States of America has solved many problems and overcame many difficulties in its history. The dual problem of solid waste disposal and energy supply can be solved by a concentrated and coordinated effort of all three sectors of our country; the consumer, private industry, and government.

Attached is a copy of an AFL–CIO resolution introduced in the Congressional Record by Honorable Robert W. Kasten, Jr., of Wisconsin on November 5, 1975. This resolution essentially supports the same objective as the South Jersey Chamber of Commerce position.

Sincerely yours,

RUSSELL A. NOBLE,
President.

RESOLUTION: SOLID WASTE POLICY

Resolution No. 20—By Delegates Vernon E. Kelley, H. Max Webster, Eddie R. Stahl, Henry S. Olsen, Matthew Davis, Aluminum Workers International Union; Thomas F. Miechur, Richard A. Northrip, Joseph J. Knapik, Kent Weaver, Toney Gallo, United Cement, Lime and Gypsum Workers; United Glass and Ceramic Workers; George M. Parker, Ivan T. Upcapher, John Gettys, David Pierson, William J. Edwards, American Flint Glass Workers Union: Harry A. Tulley, James E. Hatfield, Lee W. Minton, Stanley Brown, Edward L. McMahn, Stanley Levy, Glass Bottle Blowers' Association; S. Frank Raftery, Michael DiSilvestro, L. M. Raftrey, Ernest Seedorf, Peter Yablonsky, James Damrey, Walter Zagajeski, Mr. R. Cook, Painters and Allied trades; Lester H. Null, Sr., Philip Cohen, Edward Kasper, Fred Tanner, Pottery and Allied Workers; I. W. Abel, Walter J. Burke, John S. Johns, Roy II, Stevens, Michel F. Mazuca, Hugh P. Carcella, Edward E. Plato, Wm. Moran, Joseph Odorcich, Kay Kluz, Homer E. Bussa, Frank Lesenganich, Joseph J. Kender, Charles Younglove, Harry O. Dougherty, Bertram McNamara, Lloyd McBride, M. C. Weston, Jr., Howard Strevel, James E. Ward, United Steelworkers of America.

Whereas, A clean environment and full employment are not incompatible; in fact, they can and should go hand-in-hand, and

Whereas, The AFL-CIO position is especially pertinent in relation to the twin problems of solid waste disposal and depletion of valuable natural resources. The answer to these companion problems lies in transforming waste into usable products, and

Whereas, The answer does not lie in proposals to ban disposable cans and bottles

or to curtail use of certain materials. These proposals are really "non-solutions." By disrupting industry and causing heavy losses of jobs, more problems would be created than solved, and

Whereas, the AFL-CIO opposes legislation—at any government level—which seeks to resolve this problem by restricting the sale or use of non-returnable containers, regardless of the unemployment and other negative consequences, and

Whereas, the AFL-CIO endorses a policy of maximum resource recovery and energy conservation as they offer the only meaningful solutions to the nation's solid waste disposal needs. Accordingly, expanded resource recovery and energy conservation should be encouraged, in conjunction with present disposal methods, through the establishment of policies and programs compatible with national employment, environmental, and energy objectives; therefore, be it

Resolved: In order to meet these policy objectives, this Convention recommends that the Congress take positive action in supporting legislation which would include the following proposals:

(1) promote the demonstration, construction, and application of solid waste management and resource recovery and energy conservation systems which preserve and enhance the quality of air, water and land resources;

(2) provide technical and financial assistance to states, local governments and interstate agencies, in the planning and development of resource recovery, energy conservation and solid waste disposal programs and facilities;

(3) promote a national research and development program for improved techniques, more effective organizational arrangements, and new and improved methods of collection, separation, recovery and recycling of solid wastes, and the environmentally safe disposal of non-recoverable residues;

(4) provide for the promulgation of guidelines for solid waste collection, transportation, separation, recovery and disposal systems; and

(5) provide for training grants in occupations involving the design, operation and maintenance of solid waste disposal and energy conservation systems; and be it further

Resolved: That this convention endorses these proposals and urges Congress to implement these solutions with sufficient funds to solve the problem of solid waste disposal through resource recovery and energy conservation.

Referred to Committee on Resolutions.

INCOME DISCLOSURE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. HUNGATE. Mr. Speaker, in accordance with my regular practice since coming to Congress in 1964, I again disclose my income as shown by my most recent income tax return for the year 1975, due and filed in the year 1976.

My joint personal income tax return, form 1040, line 9 shows my congressional salary of $43,301. Line 11 shows interest income of $1,029. Line 12 shows other income as $5,812, consisting principally of rental income, $1,033; honoraria and musical compositions, $4,429; and refund, $350.

My total income, as noted on line 13, was $50,142, less line 14 of $3,949, which included an adjustment for allowed congressional living expenses attending Congress in Washington, D.C.—$3,000—and congressional travel and related expenses paid from personal funds for which no reimbursement was received, leaving an adjusted gross income of $46,193 as shown on line 15.

Form 1040, schedule A, shows deductions of $7,112.30 on line 41, consisting of State and local taxes of $2,961.80, interest paid of $1,294, charitable contributions of $1,157, and allowable medical and dental deductions of $150. Miscellaneous deductions, line 40, totaled $1,549.50 consisting of professionals dues and expenses—Missouri Bar, ASCAP, et cetera.

The total income tax due, form 1040, line 16c is $10,991, and line 19 shows the total self-employment tax of $350, making the total amount due of $11,341, shown on line 20. The total net Federal income tax withheld, line 21a, was $11,269, and the estimated tax paid was $3,200—line 21b—for a total payment on line 22 of $14,469. There was an overpayment per line 24 of $3,128, of which a refund of $128 was requested, leaving the balance of $3,000 overpaid to be credited on the 1976 estimate. The Missouri State income tax paid for 1975 was $1,369.

I do not own any stocks or bonds.

In accordance with the Federal Election Campaign Act of 1971, Public Law 92–225, all receipts and expenditures of campaign funds are handled by the Hungate for Congress Committee, P.O. Box E, Troy, Mo., Identification No. 007820, Don Thompson, treasurer. In 1975 that fund had no taxable income.

HUNGARIAN INDEPENDENCE DAY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. JAMES V. STANTON. Mr. Speaker, last March 15 marked the 188th anniversary of Hungary's War of Independence of 1848, and on that date, thousands of Clevelanders joined in celebrating Hungarian Independence Day. To further commemorate this historic event, I would now like to insert in the RECORD a statement on the admiration that Americans have for the hero of the War of Independence, Lajos Kossuth:

HUNGARIAN INDEPENDENCE DAY

March 15 marks the one hundred and twenty-eighth anniversary of Hungary's War of Independence of 1848.

An echo of the Hungarian War of Independence was the welcome in the United States of its hero, Lajos Kossuth. His reception was tremendous. The great American historian, James Ford Rhodes of Cleveland, observed, "every one agreed that, since the landing of Lafayette, no such enthusiasm had been seen (in the country); . . . it is certain that no foreigner except that gallant Frenchman ever received a similar ovation . . . This splendid testimonial was not so much to the man as to the principle of which he was the incarnation."

In Faneuil Hall Kossuth remarked: "Do me the justice to believe that I rise not with any pretension to eloquence, within the Cradle of American Liberty. If I were standing upon the ruins of Prytaneum, and had to speak whence Demosthenes spoke, my tongue would refuse to obey, my words would die away upon my lips, and I would listen to the winds, fraught with the dreadful realization of his unheeded prophecies. Spirit of American eloquence, frown not at my boldness, that I dare abuse Shakespeare's language in Faneuil Hall! It is a strange fate, and not my choice . . . my humble tongue tells the record of eternal truth . . . Liberty restricted to one nation never can be sure." /Kossuth in New England; Boston & Cleveland: Jewett, Proctor, and Worthington, 1852./

According to the contemporary press, upon the invitation of leading Clevelanders Kossuth's reception in Cleveland between January 31 and February 4, 1852 was a "brilliant" testimony of the citizenry of the Western Reserve to their firm belief in the cosmopolitan political aspirations of American democracy.

It was Judge Samuel Starkweather, the first elected judge in Cleveland, who identified the cause of Kossuth with the historic heritage of America. In a notable introduction at Melodeon Hall speaking—to Kossuth—he declared: "For who does not feel that the cause you plead was not the cause of our Fathers, in which they pledged their lives, their fortunes, and their sacred honors?" /True Democrat, Cleveland, Daily, February 3, 1852./

At Cleveland's University Circle stands the unpretentious statue of Lajos Kossuth. The unveiling of the statue in 1902 was of international interest, and inspired one of the most picturesque pageants ever seen in the city. At that time, " . . . Cleveland accepted the scholarly judgment of Charles F. Thwing, late President of Western Reserve University, who said: 'Among the great ones of the Earth we place him.' . . ."/ The Ohio State Archeological and Historical Quarterly, Volume LXI, p. 257/.

CUBANS BRING IN WIVES AND CHILDREN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. McDONALD of Georgia. Mr. Speaker, Africa's newest imperialists, the Cubans, are settling in for a long stay in Angola. These Soviet mercenaries apparently have no intention of leaving Angola any time in the near future. The fact that Cuban families are arriving is indicative of the weakness of the present Angolian rulers who will apparently need Cuban soldiers in order to hold the country for a long time to come. The story from the Sunday Telegraph of London for April 4, 1976, follows:

CUBANS BRING IN WIVES AND CHILDREN

(By Norman Kirkham)

Cuba is strengthening her hold in Angola despite the withdrawal of South African troops. Several hundred more technical advisers and nearly 3,000 wives and children of men already serving there have arrived from Havana.

Diplomatic sources in Southern Africa reported yesterday that there are now 12,000 troops and about 1,000 advisers and technicians. The cost to Dr. Castro's Government and his Kremlin backers of keeping them there is estimated at about £500,000 a day.

Concern is growing among Western Governments that large numbers of the Cubans will remain indefinitely.

Apart from protecting the Marxist M.P.L.A. Government, they will help to develop the fisheries and agricultural industries, railways and transport.

VORSTER'S MOVE

The Cuban forces were sent last autumn, ostensibly to combat the South African presence. Pretoria has been hoping that with Dr. Vorster's decision to pull out his troops, Cuba would be presuaded to follow suit.

Any chances of this are fading rapidly. Medical teams, engineers and farming experts are continuing to fly into Luanda.

KEY ROLE

Attempts to prevent the Cuban build-up were part of British diplomatic strategy in helping to negotiate the South African withdrawal. Mr. Callaghan, Foreign Secretary, has condemned repeatedly all foreign intervention in Angola.

It emerged yesterday that Nigeria, like Britain, took a key role as a go-between in diplomatic efforts aimed at removing both the South Africans and Cubans. This may be the reason why the Foreign Office has not emphasised the British contribution.

The Lagos Government, which has the trust and friendship of the M.P.L.A. leaders, conveyed their views to Whitehall several months ago and these were passed on to Pretoria.

Mr. Callaghan took up the issue with Mr. Lunkov, Soviet Ambassador, and Mr. Gromyko, Foreign Minister, last month.

There was no undue surprise when the M.P.L.A. agreed to safeguard water and power supplies of the Cunene River scheme and respected the frontier with Namibia.

NATIONAL DEFENSE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. LAGOMARSINO. Mr. Speaker, national defense is the subject of the following editorial from the Press-Courier. This editorial is entitled: "Security Won't Come Cheap," and presents an overview on this critical issue:

[From the Press-Courier, Mar. 20, 1976]

SECURITY WON'T COME CHEAP

There is much more to national defense than the preservation of the integrity of American political and physical boundaries.

National defense is designed to protect the interests of the United States throughout the world.

The cost of achieving this goal during fiscal 1977, according to President Ford's budget proposal, will be $101.1 billion. And, as Ford conceded to key congressional leaders recently in seeking support for his recommendations, he has proposed the largest defense budget in history.

Ford might also have pointed out that an over-all budget review for the past decade would reveal that spending for defense programs has risen less than any other budget category.

It is not enough, however, for the President to use comparatives in selling his budget. He must persuade Congress first that military balance worldwide reduces the threat of war, that control of the sea lanes is vital to profitable world trade and that demonstrated military strength discourages adventurism from hostile nations abroad.

He must also convince Congress of the paradox that the ultimate goal of reduced armament through negotiation depends on maintaining a military might equal to that of the potential enemies.

Ford insists that the relatively modest hike in the defense budget is possible only through sharp restraints in noncombat activities. Personnel cuts, restricted travel and fuel consumption and curtailed construction programs are cited as offsetting more emphasis on combat effectiveness.

Ford makes a good case in his bid for new ships, new planes and more sophisticated strategic weapons. Congress should scrutinize his spending plan sharply to insure the efficiency Ford envisions, but it must be wary of jeopardizing the ultimate goal of eased international tensions reached through discussions backed up by strength.

A CAMPAIGN FOR SURVIVAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. DERWINSKI. Mr. Speaker, Mary McGrory, the widely read columnist, took a good, objective look in her column which appeared in the Chicago Tribune on April 7, at the situation in New York City. It is timely and appropriate not only because we will face decisions in Congress over funding for New York, but as host city to the Democratic National Convention, New York will be put to an interesting test:

A CAMPAIGN FOR SURVIVAL

(By Mary McGrory)

NEW YORK.—You could have walked miles through Manhattan and never have seen a campaign button or poster.

On almost every street corner, men were passing out flyers. A visitor asked for one. The pulpy-faced adolescent paused in his distribution and muttered, "for men only."

It was a last touch of gentility. The handouts were not political campaign flyers but advertisements for houses of prostitution. One promised: "$10 includes everything. And we mean everything." A picture of a naked girl was on the facing page.

Times Square and its adjoining streets are lined with pornography shops, peep shows, "adult" bookstores. The gutters are ankle deep in litter which spills over from the sidewalks.

The shock of New York hit one presidential candidate full force. Sen. Frank Church [D., Idaho] arrived at a League of Women Voters forum fresh from the airport and was too appalled to be tactful. He exclaimed, "My goodness, this is a big dumping ground."

New York papers didn't even bother to print his remark. Litter is the least of the city's problems.

The budget cuts forced by federal aid threaten their jobs, their day-care centers, their schools, libraries, drug treatment centers. Last week, those lucky enough to have jobs wondered for three wracking days if they would be able to get to them, while the transit workers negotiated for money that is not there. A crisis was averted at the last agonizing minute.

Tuesday's presidential primary could not compete in their minds with their own struggle. They were campaigning for survival.

Last week, Sen. Henry M. Jackson [D., Wash.] traveled to the heart of Harlem to Syndenham Hospital, which is marked for extinction on June 30. It has 200 beds, 900 jobs.

A black woman, a resident surgeon, who was wearing a "Save Syndenham" button, stood on the edge of the candidate's sidewalk press conference.

"We have more important things on our mind," she said grimly, when asked about the election.

The senator was proclaiming his determination as President to keep the hospital open as "a matter of life and death."

The woman wasn't listening.

"We'll see," she said, when it was pointed out to her that her cause was Jackson's. "We've heard a lot of promises down here."

The only candidate who was able to rouse any gathering during the last week of intense political activity was Hubert Humphrey, who is not on the ballot. The Minnesota senator made an impassioned speech about the plight of exciting and doomed places like New York and called for a Marshall Plan for the cities. It will take something of that order to revive New York.

Some New Yorkers, although plainly not enough, wonder what the impact of the sinking city will be on the Democratic Party when it comes here for its convention in July.

How will the wholesome heartland delegate react when he is handed an advertisement for "erotica" or "passion international rooms" during a stroll through Times Square? What if he *ventures into Harlem*, sees streets that look like Beirut—whole blocks of boarded up buildings, or buildings with every window broken? A city hall task force is trying, with no visible success, to do something about the filth of Times Square. Greedy landlords and civil libertarians are unlikely allies in opposition.

The convention delegates, like all other American citizens, are underwriting New York through federal loan guarantees.

"Maybe when they see how rotten it is," said one dispirited Democrat, "they'll just decide it isn't worth saving and they should let it fall."

Hugh Carey, New York's governor, who has manfully embroiled himself in the city's bottomless financial woes to the point where he is almost also New York's mayor, says that it would be nice if the city could have a facelift for its company. The problem, again, is money. New York has no credit so it can't borrow the needed cash for the refurbishing.

New York needs morale as much as it needs money. The city is sick, and it is sickening. The convention won't help with either problem.

But maybe, the governor said, "it will help force a national decision, whether this city is going to live or whether it will be like Phnom Penh, where they pushed all the inhabitants out into the countryside."

TITLE: INTERNAL SECURITY—AS BASIC AS THE LOCK ON YOUR DOOR—PART 1

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. ASHBROOK. Mr. Speaker, as I have previously indicated, the internal security responsibilities which the House has exercised for over 40 years through its House Internal Security Committee and its predecessor committees has been effectively phased out with the vote of the Judiciary Committee to relinquish possession of the HCIS public-source files. Ridding itself of the files indicates that the House Judiciary Committee has no intention of continuing the work done by past security units in the House.

To counteract this action and return to the House participation in this all-important area, I have filed Discharge Petition No. 9 to release from the Rules Committee House Joint Resolution 518, a bill to establish a House-Senate Joint Committee on Internal Security.

This proposal provides that the 10-member committee will be comprised of five members from the Senate appointed by the President pro tempore of the Senate and five members from the House appointed by the Speaker of the House. The resolution further provides that not more than three of the Members of either the House or the Senate may be of the same political party, with the appointment of any Member being for the duration of the elected term of office of such Member. The committee would select its chairman and vice chairman at the beginning of each Congress and these positions would be alternated between the Senate and the House respectively at the beginning of each Congress.

The mandate of the Joint Committee would be similar to the jurisdiction of the Committe on Internal Security except for certain matters stemming from the joint nature of the new committee. All bills, resolutions, and other matters in the Senate or the House relating primarily to internal security shall be referred to the Joint Committee, and members of the Joint Committee are to report to the Senate and the House, by bill or otherwise, their recommendations.

The joint committee is authorized to proceed through any authorized subcommittee and to sit at such places and times as it determines appropriate during sessions, recesses and adjournments of Congress. It would require by subpena or otherwise the attendance of witnesses and the production of books, records, correspondence, papers and documents. The committee would also be empowered to administer oaths and affirmations, to take testimony, and to procure such printing and binding and make such expenditures as it deems advisable. The committee would also make appropriate rules respecting its organization and procedures.

Especially pertinent today when classified information is being leaked seemingly more as a rule than an exception are the provisions for securing such information. Section 4 of the proposal provides that the committee shall secure the protection of such classified information by such methods and systems as will afford protection which is at least equal to that provided by the executive branch for the security of similarly classified material. It further stipulates that no Member of the House or Senate shall make public any part of such classified material without the prior approval of the Senate or House. The mandate of the House Internal Security Committee did not contain this provision.

Finally, upon enactment of the joint committee proposal by both Houses, all property and records of the Internal Security Subcommitee of the Senate and the records of the former Committee on Internal Security of the House shall be transferred to the joint committee for its use.

One feature of a joint committee is that neither the Senate or the House acting alone can abolish the joint security unit. If the parliamentary sleight-of-hand with which the House abolished the committee in January 1975, were to again be utilized against a joint committee, the Senate would have to confirm such action. Also, the added influence of a unit of both Senators and Congressmen could not but help increase its defenses against attacks from both Houses.

It seems almost incredible that the importance of the internal security issue must be discussed and proved in the light of events in the last 10 to 15 years. My experience in this field since the early 1960's has demonstrated to me that the average citizen is much closer to reality than some here in Congress and in the executive branch. Two recent attempts on the life of the President of the United States by political extremists are not lost on the concerned citizens of our country. The excesses of the Ku Klux Klan, the Black Panthers, and the SDS in the 1960's have been replaced by the Symbionese Liberation Army, the Emiliano Zapata Unit, the Red Guerrilla Family, the New World Liberation Front, to mention a few. One marked difference between these two groupings is the resort to more extreme types of violence on the part of the latter group.

In the months ahead I intend to cover various aspects of the internal security issue. Almost 15 months have gone by since the Judiciary Committee assumed responsibility for the security responsibilities. Despite Judiciary Chairman RODINO's observation in the last Congress that his committee had too many jurisdictions and was overloaded, the House voted to send the internal security to that committee. With the relinquishing of the HCIS files, approved by a vote of the full Judiciary Committee, any hope of continuing the internal security responsibilities as carried out by the House for over 40 years is just about extinguished. Hence, the need for a citizens' campaign to restore this vital function in the House.

The joint committee approach would solve the problems of the Senate Subcommittee on Internal Security, whose funds have been drastically cut in recent years. At this time, the subcommittee has just enough funds to pay salaries for its decimated staff and must receive a supplemental appropriation to remain alive.

I cannot help but express consternation at the Senate's action in crippling SISS. Combined with the House action, it is easy to see why the ratings of confidence in Congress have been dwindling. These two security units, whose combined existence numbers nearly 75 years, have been involved in a staggering number of internal security issues and aspects. A cursory glance at a listing of hearings and reports issued by these two groups indicates the magnitude and diversity of this field. Unfortunately, the public does not have access to the secret, unpublished information accumulated over the years by SISS and HISC. I am sure some of this information would make fascinating reading.

Former President Woodrow Wilson, in his book "Congressional Government," refers to Congress as the "eyes and the voice" of its constituents. The Senate and House internal security bodies have truly been the "eyes and voice" of Congress in the security area. Yet Congress would eliminate both.

Some of the security issues which urgently need confronting are terrorism, the increasing sophistication of weapons available to terrorists, Soviet influence and personnel on Capitol Hill, Soviet monitoring of congressional and other phone calls, the present state of the Federal Employee Security Program, U.S. Communist Party fronts and activities, refutation of Communist propaganda by victims and escapees of Communist tyranny, continuing oversight over radical or ill-advised efforts to restrict the legitimate functions of the CIA, FBI, and law enforcement agencies at Federal, State, and local levels.

For the information of law enforcement people, veterans' groups, friends of the Captive Nations, members of fraternal, patriotic and other organizations, and most of all for those other millions of citizens who happen to believe that internal security is as basic as the locks on their doors, this is strictly a congressional matter and does not involve the White House. For each constituent, there are three people involved—his two Senators and his Congressman. The means at hand—each citizen's freedom to petition Congress either through his or her individual visits, phone calls, telegrams or letters, as well as through organizational resolutions or inquiries.

SPY SOUGHT WORK ON CAPITOL HILL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. FINDLEY. Mr. Speaker, James Frederick Sattler, who is identified in today's Washington Post as "a paid spy for East Germany," sought and was recommended for a sensitive foreign policy position on Capitol Hill in 1975. Sattler, who has admitted sending information about NATO to his East German contact as well as microdisk photographs planted in mailed packages, applied in February 1975 for a position as the Minority Staff Consultant to the International Security Subcommittee of the House International Relations Committee. As the ranking Republican, I was charged with making the staff recommendation.

I was so impressed with Sattler, that I hoped to hire him. He came highly recommended by his employer, the prestigious Atlantic Council. He had written extensively and impressively on military, political and economic problems of NATO and the Warsaw Pact. His academic attainments were impressive. He was likable. On February 27, 1975, Mr. Sattler and I sat in my office, discussing the preparations that would be necessary for an upcoming foreign policy conference. I said I would recommend him for the job and he said he would accept. He seemed anxious to work hard and excited about the prospect of being in a congressional office. Little did I know then why he was so anxious to get started.

After I had cleared the appointment with Congressman BROOMFIELD and

Chairman MORGAN, I knew a routine FBI check would be made. As a committee staff member he would have access to highly sensitive classified documents.

On Friday, February 28, I received an unexpected request from the FBI for an urgent appointment. At 4 p.m. that afternoon three FBI agents came to my Capitol Hill office and told me the shocking news that Sattler had been passing information to an East European contact for a considerable period of time. The FBI had been watching him closely to try to determine whether he was part of a spy ring. I was flabbergasted.

I was also very grateful to the FBI for alerting me to Sattler's background. In a subsequent meeting, we pondered what to do. One possibility was to go ahead and hire Sattler, play him along, and hope that we would eventually implicate other spies operating in our country. If instead, I told him I could not hire him, I would have to do so in a way not to arouse his suspicion that he was being watched by the FBI. If his suspicion was aroused, this might put in jeopardy sensitive sources involved in the investigation. At a minimum, the FBI would need a period of time to assure the safety of such sources.

I concluded that the best course was to tell Sattler that his previous partisan work made his employment impossible.

Over the weekend, Sattler had gone to visit his parents in New England to celebrate his new job. I learned subsequently that he also used the occasion to get off a clandestine message to his contact in East Europe telling him that soon he would have access to very sensitive information as a member of the House International Relations Committee staff.

On Monday, March 3, when Sattler returned to Washington, I broke the news to him that he could not have the job. I told him that a previous association he had had with the Coalition for a Democratic Majority, an activity of the Democratic Party, made him unacceptable in a position where his primary responsibility would be to Republicans.

Sattler was upset. After voicing his bitter disappointment he left my office and proceeded with an unsuccessful telephone campaign to reverse my decision. He persuaded several prominent Republicans, who of course knew nothing of his spy work, to call me in his behalf.

The experience was a sobering reminder that the real world is one of spies, intrigue, and double-dealing. It swept aside any illusions that Communist governments closely allied with the Soviet Union have dropped their undercover work in this era of détente.

It buttressed my confidence in the FBI and the thoroughness and effectiveness with which it deals with such problems.

It also strengthened my confidence in the security procedures established for the Committee on International Relations by Chairman Morgan. These procedures keep classified documents closely held, and require thorough security clearance for all staff members.

I have not seen or heard from Sattler since, but I have several times checked with the FBI and received the welcome assurance that he was being carefully watched in the intervening year.

The Washington Post article follows:

[From the Washington Post, Apr. 8, 1976]

PANEL AIDE FIRED AS SPY OF GERMANS

(By John M. Goshko)

A political scientist employed by the Atlantic Council, a prestigious private organization for the study of foreign policy, has been fired after admitting that he was a paid spy for East Germany.

James Frederick Sattler, who had worked as a consultant on various council study projects since 1972, was discharged last Friday after the Justice Department notified the council of his activities.

On March 23, Sattler registered with the Justice Department as a foreign agent. In his registration statement, he admitted that he had been passing information to East German intelligence agencies since 1967 and, for his services, had been paid approximately $15,000 and given "an honor decoration" from the East German Ministry of State Security.

Sattler could not be reached for comment, and it was not immediately clear why he had voluntarily supplied detailed information about activities that could expose him to prosecution under federal espionage laws.

Justice Depatment sources said only that Sattler had registered after becoming aware that he was the object of an FBI investigation. The sources added that the department has decided not to prosecute Sattler because of the unavailability of key witnesses.

In his registration statement, Sattler, 37, admitted that he was recruited in 1967 by an individual named "Rolf," who he later learned was an East German official connected with "the combined intelligence services of the Warsaw Treaty Organization." Sattler said he was told to secure employment "in a position with access to information of value to the Warsaw Treaty."

From 1967 through 1975, he added, "I transferred to my principals in East Berlin information and documents which I received from the North Atlantic Treaty Organization and from individuals in institutions and government agencies in West Germany, the United States, Britain, Canada and France."

His statement left unclear whether any of the documents was classified or contained information that would be regarded as important in intelligence circles. Atlantic Council officials said their rules forbid the use of classified materials in their studies and asserted that Sattler would not have had access to classified documents through his work at the council.

Sattler, in his statement, said that he photographed part of the material with a microdisc camera provided by the East Germans and then planted the microdiscs in packages that he sent to Germany. Other documents, he added, were photographed with a Minox camera; and the film was carried by him to Berlin or handed to a courier. "During my last visit to East Germany in November, 1975," he said, "I was advised to attempt to obtain a position in the United States government with access to classified information. I was advised not to attempt to make contact with my principals in East Germany until my possible return in early 1976."

The Atlantic Council, founded by former Secretary of State Christian Herter in 1961, seeks to solve foreign policy problems by issuing position papers, conducting seminars and publishing a monthly news bulletin and a quarterly journal. It also does occasional studies on contract from departments of the federal government.

Although it has no official government connection, the membership of its board reads like a who's who of the so-called "Eastern foreign policy establishment." Secretary of State Henry A. Kissinger is a board member, and the board chairman is former Treasury Secretary Henry H. Fowler.

Francis O. Wilcox, the council's secretary general, said that Sattler had worked on a number of council studies including problems of European force reductions and East-West trade. He added that "Sattler's work had been very objective, and he seemed a very knowledgeable and capable student of international affairs."

Wilcox was able to provide only sketchy details of Sattler's background but said he had studied in Germany and had been a lecturer in political science at various Canadian universities.

Wilcox also said that Sattler's "job with the council was expiring, and he was looking for a new one. He told me that he had been looking into several possibilities including some positions on Capitol Hill, but I don't know how far he got."

TRIBUTE TO ROY WILKINS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. RANGEL. Mr. Speaker, on April 4 the American Jewish Congress awarded to Roy Wilkins, executive director of the NAACP, their coveted 1976 Civil Rights Award for his outstanding work in the fight for racial justice. In the time I have known Roy Wilkins, I can say that at no time has his determination in this our most important struggle wavered. At all times, Roy has had as his primary concern the goal of economic and educational improvement. However, his concern encompasses the needs of all the disadvantaged, not just blacks. It is that concern for all disadvantaged that the American Jewish Congress is recognizing with this award.

The citation to Mr. Wilkins read:

The American Jewish Congress is honored to present the 1976 Civil Rights Award to Roy Wilkins for distinguished contributions to the cause of racial justice in America and for recognizing that only by working together for the goals we share can the Black and Jewish communities help achieve the goal of full equality in a free society for all Americans.

In honoring Roy Wilkins, the American Jewish Congress is paying tribute to the spirit of cooperation that permeated his character and enabled him to work together with groups such as the American Jewish Congress on issues of mutual concern. Among these issues are full employment, decent health care and other matters which Rabbi Arthur Hertzberg, president of the congress said are "aimed at translating into reality the dream of life, liberty, and the pursuit of happiness." Such a goal is one that we all can and must work toward.

I would like to include in the RECORD at this time a copy of the letter I sent to Mr. Wilkins congratulating him on his receipt of this award. My letter follows:

MARCH 22, 1976.

The ROY WILKINS TRIBUTE COMMITTEE,
North End Station,
Detroit, Mich.

DEAR ROY: I would just like to add my voice to the thousands of people who will be

offering their best wishes to you on this the night that we pay tribute to you.

Your work in the civil rights field has served to help reduce the legal barriers that have obstructed black citizens as we have attempted to become full and equal participating members of the society. Although you know more than anyone else that your particular positions on issues have not always been popular with many in our nation you are to be commended for having the courage to speak and act in a manner which you believed to be correct. On this, a night when we say thanks to you for your service within the NAACP and outside the organization, I just want to say that I wish you continued years of happiness and good health.

Congratulations.

Sincerely,

CHARLES B. RANGEL,
Member of Congress.

HELEN COTTON—A CONCERNED AND INVOLVED AMERICAN

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. SARASIN. Mr. Speaker, one of the questions most frequently posed to Members of Congress, by young and old alike, is "What effect can I, one individual out of millions of Americans, have on my Government?"

The answer which we give is of utmost importance, because public apathy appears to be widespread. Apathy, above all else, threatens the very freedoms which are essential to life as we know it but which are all too often taken for granted.

One resident of Connecticut, Miss Helen Cotton, has suffered from cerebral palsy for many years but still participates actively in the political process. She not only is living proof that all Americans, regardless of disability, can make major contributions to our society, but she also understands, perhaps better than most, the fundamental reason why Americans should discard their shrouds of apathy for an active interest in our Government and how they can become involved.

Yesterday, April 7, 1976, an address was delivered to the Newington Hospital for Crippled Children, in Newington, Conn., a speech written by Miss Cotton to provide understanding, hope, and encouragement for those with handicaps. However, her words should have meaning for all Americans, from all ages, walks of life, and conditions. I offer her words to you so that you might share them with your constituents as I will with mine:

ANOTHER BIG ELECTION YEAR

(By Helen Cotton)

As we approach July 4, 1976, it is fitting and most appropriate that this is a Presidential election year. We are still preserving the freedoms which our forefathers established two hundred years ago. We have our freedoms because of a war fought two hundred years ago, and because of the participation in elections of our parents and grandparents since then. Now it is up to you to keep them.

How are you going to preserve our freedoms? For those of you who are 18, register with the party of your choice. Party affiliation is of the utmost importance, so that you can have a voice in the selection of candidates. Then vote on election day. This is the most precious right guaranteed under our constitution. Some people neglect this privilege. But to be able to vote is a sacred right to me. I am proud to state that I have voted in every election in my wheelchair, since becoming eligibile to vote. Sometimes it was at the expense of my health. But with each election, we prove to the world that our system does work.

For those of you have not yet reached the age of 18, you, too, can be a part of the action. I began being interested and active in politics when I was 10, at this very school. You can hold class debates, and try to persuade a fellow-student to your side of political questions. You can address and stuff envelopes for candidates, or make phone calls to remind people to vote. And there are many other jobs, which may seem boring but are extremely important in any campaign and election.

I will be the first to admit that our democratic system has had some corruption, but the dishonesty has been far outweighed by those who are honest in government. You can be a watchdog over our government officials by observing them to make sure they keep honest. And we should remember to praise or say thanks to an official when a job is well done. It is easy to criticize, but we often forget to express our thanks.

We can start corresponding with the President of the United States, members of Congress, our governor, members of the State legislature, and local officials. Sometimes we have the chance to meet these people. They are human beings like you and me, with problems similar to ours. They are anxious to keep in touch with their constituents.

You may not be interested in politics, but there are many other things in life to do. Whatever your interest, do it well. Keeping busy is what makes life really enjoyable. We can use our interests and talents to enrich the life of others, and this strengthens the opportunities and freedoms offered by our country.

For example, I have been active in the drive to keep whales from becoming extinct. I have done this in memory of my science teacher at Newington. Last summer I acted as campaign manager for a man who was running for office in my hometown of Granby. I'm active in church, participating in worship, singing in the choir, and studying the Bible with other adults. I'm always interested in the joys and sorrows of my friends. Sometimes I have helped by writing letters in their behalf to the right people in politics.

If we appreciate the freedoms of our democracy, we will work to maintain them. I hope that in this bicentennial year, you will participate in every possible way in the upcoming campaigns and elections.

JOSEPH B. SIMPSON, JR.

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BYRON. Mr. Speaker, recently I learned of the passing of Joseph B. Simpson, Jr., a longtime friend and colleague at the Maryland bar.

Mr. Simpson was born in Washington, but lived most of his life in Takoma Park. He attended Vanderbilt University and graduated from George Washington University Law School, where he received a bachelor of law degree and a juris doctor.

His law firm served as counsel to the Montgomery County Commissioners from 1938 to 1940. He served as Montgomery County's States Attorney. He was a member of the American, Maryland, and Montgomery County Bar Associations, and he served as president of the Montgomery County Bar Association in 1955–56.

Joe Simpson had a long and distinguished career in the legal profession and in public service. I am sure his family and friends will remember his community efforts, and I extend my sympathy to them. Joe Simpson will be missed.

END THE FEDERAL ENERGY ADMINISTRATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mrs. SCHROEDER. Mr. Speaker, Congress established the Federal Energy Administration in 1974 as a short-term agency. The major issues and activities that precipitated the FEA's creation, the oil shortage and embargo, and the oil price control and allocation programs, are either gone or on their way out.

The FEA started business with a handful of employees detailed over from other agencies, where, as section 2(c) of the FEA Act states:

Such a transfer is necessary on an interim basis to deal with the Nation's energy shortage.

The FEA's termination date was set for June 30, 1976.

Congress in its wisdom inserted several clauses in the Federal Energy Administration Act (Public Law 93–275) in order to provide for the reversion of the FEA's functions back to their original agencies upon the FEA's termination. Sections 9 and 10 give the executive branch the authority to redistribute the Agency's functions upon its expiration. Section 28 protects the job status of employees who had permanent status in the agencies from which they were detailed.

In the energy legislation passed since 1974 which gives additional powers to the FEA, these reversion provisions have been continued. Section 14 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93–319), states that when the FEA expires, the President must designate someone else to take on the agency's duties. Section 527 of the Energy Policy and Conservation Act (Public Law 94–163), which Congress passed only last December, specifically states:

In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

Mr. Speaker, the intent of Congress that the Federal Energy Administration is a temporary agency is made even more clear by section 15(a) of the original act:

(a) Six months before the expiration of this chapter, the President shall transmit to Congress a full report together with his recommendations for—

(1) disposition of the functions of the Administration upon its termination;

(2) continuation of the Administration with its present functions; or

(3) reorganization of the Administration; and

(4) organization of the Federal government for the management of energy and natural resources policies and programs.

Mr. Speaker, in answer to this mandate from Congress, the President sent to us on February 16, 1976—a month and a half after its due date—the following letter. It was printed as House Document 94-372, as follows:

THE WHITE HOUSE,
Washington, February 16, 1976.

Hon. THE SPEAKER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The Federal Energy Administration Act of 1974, section 15(a), required that I submit to the Congress six months before the expiration of this Act my recommendations for the future of the Federal Energy Administration.

In view of my recent signing of the Energy Policy and Conservation Act of 1975, I have determined that the management of energy policies and programs can best be served by the extension of the Federal Energy Administration until September 30, 1979—thirty-nine months beyond its current termination date of June 30, 1976. This will allow an orderly phasing out of price and allocation controls on domestic oil production over a period of forty months and implementation of other programs called for in that Act.

I have directed Federal Energy Administrator Zarb to seek the authority required to carry out this proposal.

Sincerely,

GERALD R. FORD.

Mr. Speaker, I was disturbed by Mr. Ford's letter. It does not, by any means, satisfy the congressional intent for the President to tell us what he plans to do with energy reorganization. It gives no reasons why the FEA should continue to exist or what will happen if it dies. My concern led me to write the following letter to the President asking him to clarify his intentions:

WASHINGTON, D.C.,
March 19, 1976.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to you in regard to your letter of February 16, 1976, to the Speaker of the House in which you made recommendations for the future of the Federal Energy Administration (FEA).

I have strong doubts that your letter meets the requirements which Congress set up in Section 15(a) of the Federal Energy Administration Act of 1974.

Not only does Section 15(a) require, as your letter notes, your recommendations for the future of the FEA, but Section 15(a) also requires a full report on the disposition of the FEA's functions upon termination of a full report on continuation of the FEA in its present form, a full report on reorganization of the FEA, and a full report on the organization of the Federal Government for the management of energy and natural resources policies and programs.

Congress is going to have to vote prior to July 1, 1976, when the present authorizing legislation expires, on whether it wants the FEA to stay alive. Congress can only make such a decision with full knowledge of what would happen to the functions of the FEA should it allow the agency to expire, and how national energy policy would be affected by renewing or not renewing the FEA.

Since Sections 9 and 10 of the Federal Energy Administration Act give the Executive branch the power to redistribute the FEA's functions within the government should the FEA expire, I think it is only fair that you tell Congress what your plans are in case such an event occurs.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

The White House reply was hardly any more enlightening than Mr. Ford's original letter. It follows:

THE WHITE HOUSE,
Washington, March 23, 1976.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, D.C.

DEAR MRS. SCHROEDER: This will acknowledge receipt and thank you for your March 19 letter to the President commenting on his recommendation with respect to the Federal Energy Administration.

Please be assured your letter will be called to the attention of the President and the appropriate members of the staff at the earliest opportunity.

With kind regards,

Sincerely,

CHARLES LEPPERT, JR.,
Special Assistant for Legislative Affairs.

Apparently, Mr. Ford is not aware of his responsibilities under Public Law 93-275, nor does he have any idea of what is going on with the FEA, nor does he have any desire to fulfill the intent of Congress which recommends that the FEA expire.

On the chance that some of his subordinates might, I sent the following three letters:

MARCH 30, 1976.

JAMES T. LYNN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LYNN: Section 9 of the Federal Energy Administration Act authorizes and directs you to make incidental dispositions of the various functions of the Federal Energy Administration upon its demise.

Please supply me with your plans for disposition of the FEA's functions which are under your control at your earliest possible convenience.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

MARCH 30, 1976.

Hon. THOMAS S. KLEPPE,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: When the Federal Energy Administration was created in 1974 certain offices within your Department were transferred over to it.

The law which created the FEA calls for its demise on June 30 of this year and, as well, a reversion of its functions to the departments and agencies from where they came.

I would greatly appreciate knowing your plans for disposition of the FEA's functions which you will receive at your earliest possible convenience.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

MARCH 30, 1976.

Hon. FRANK ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. ZARB: The Federal Energy Administration is scheduled to end its existence on June 30 of this year.

I am concerned with where the functions of the FEA will go when it ends. As you will note from my non-conciusive correspondence with the President (who has primary authority of the FEA's demise), the plans for reversion of the FEA's functions and authorities have apparently yet to work their way up to him.

I believe, therefore, that you must still have the plans. Please be so kind as to pass a copy along to me at your earliest convenience.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

I have yet to receive a single reply, and am beginning to wonder if anyone in the executive branch has given these matters a second's thought. All the more reason for Congress to do so.

TERRIBLE SITUATION IN DETROIT CREATED BY HUD

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BRODHEAD. Mr. Speaker, I wish to share with my colleagues the testimony which I presented to the HUD-Independent Agencies Subcommittee on behalf of Mr. CONYERS, Mr. DIGGS, Mr. DINGELL, and myself. In this testimony which was delivered on March 8, we describe the terrible situation which has been created in Detroit by the policies and practices of the Department of Housing and Urban Development.

The text follows:

STATEMENT OF THE DELEGATION OF DETROIT CONGRESSMEN—the HONORABLE WILLIAM BRODHEAD, the Honorable JOHN CONYERS, the Honorable CHARLES C. DIGGS, and the Honorable JOHN D. DINGELL, BEFORE THE HUD-INDEPENDENT AGENCIES SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS COMMITTEE, APRIL 8, 1976

In recent days, this Subcommittee has been studying the programs and priorities of the Department of Housing and Urban Development for the coming fiscal year. You have heard HUD officials describe improvements within the Department in an attempt to justify an increase of approximately $3.1 billion dollars in HUD's 1977 budget.

We are here today to share another aspect of this picture with you. We come today as representatives of Detroit, a city which has been ravaged by the ineptness, stupidity, and blind rigidity of HUD programs and regulations. We continue to be told of "improvements" and breakthroughs, but the fact of the matter is that the blight HUD has brought to our city continues to grow even today.

In terms of population, Detroit is the fifth largest American city. However, in terms of

damage caused by HUD, Detroit dwarfs the larger cities of New York and Chicago. The city's inventory of some 10,000 HUD-owned properties far exceeds the combined totals for Chicago and New York. Over ⅙ of HUD's entire inventory of 57,000 properties is within the jurisdiction of the HUD Detroit office, and it is estimated that maintenance for these properties costs the taxpayers about $80,000 a day or $29.2 million per year.

In Detroit today you can see block after block of abandoned, decaying HUD homes—a scene reminiscent of the bombed-out cities of Europe during World War II. For the people of Detroit, these rotting hulks are a painful symbol of the *total failure* of the Department's operations—a failure which encompasses HUD's insurance, rehabilitation, sales, and property management programs.

As evidence of the state of disrepair of HUD properties in our city, we have with us several photos of HUD-owned homes. We invite you to look at them, and we are sure you can pick out the HUD properties. They are the boarded-up structures with broken windows, trash on the lawn, etc. Their blatant lack of care invites vandalism and arson and presents a substantial safety hazard to youngsters in their neighborhoods. Moreover, these hazardous eyesores destroy the character of many formerly fine neighborhoods and erode away the investments which citizens have made in these neighborhoods.

When a house is repossessed by HUD, it takes the Detroit area office over 21 months to dispose of it. This is a full nine months longer than the national HUD average for dealing with houses in the inventory. During this nearly two year period, these homes are a blight on the entire neighborhood, driving property values down and dragging down the quality of life for tens of thousands of taxpaying citizens.

Perhaps the most terrible example of HUD's continuing failure in Detroit is the stark statistic of homes condemned and demolished in the past five years. Since 1970, HUD has been forced to raze some 9200 homes in our city . . . homes that were supposedly sound and livable when HUD insured the mortgages on them. In addition, more than 1,900 homes currently await demolition. The demolitions which have already been completed represent a loss of over $180 million to the federal government.

Following the exposure of widespread corruption within HUD's Detroit office, which resulted in the indictments of over 170 government officials, speculators, and unprincipled contractors, HUD all but abandoned its rehabilitation program. As an alternative, they began dumping thousands of run-down homes on the market in the as-is sales program.

HUD justifies this practice on the grounds of "maximum return to the insurance funds". This policy has prevented HUD from developing a workable homesteading program. It has also prevented HUD from rapidly demolishing those homes which cannot be economically rehabilitated. We believe that so long as HUD pursues the policy of getting its money back with such shortsightedness, other programs which might help to undo the wrongs HUD has wrought in Detroit will be short-changed.

Perhaps the most ridiculous—and potentially dangerous—development in the area of HUD maintenance was the suspension without a hearing of 40 of the city's 41 demolition firms last October. Because five contractors were suspected of burying rubble at demolition sites, HUD suspended 40 of the firms that can do demolition work in the city.

This decision brought the entire program to a standstill, leaving 3400 houses to rot and blight our city. Under cumbersome HUD procedures, the hearings on these contractors dragged on for six months, while Detroit citizens were forced to continue living with these 3,400 deserted, rotting hulks. The final result was a total of six suspensions, and HUD has only recently allowed the innocent contractors to go back to work.

While the inventory sits awaiting as-is sales or demolition, HUD pays city property taxes, and is in fact the city's fifth largest source of property tax revenues. However, the Department's bungling has extended to this area, too. The Government Accounting Office has reported that last year in Detroit, HUD paid city taxes on 81 homes which it did not own and paid twice on some homes it did own. The city government recently presented HUD with a bill for $1,270,338 in back city, school and property taxes and an additional $191,868 in interest and penalties.

HUD itself has estimated that it will take fifteen years to eliminate the Detroit inventory. Given the Department's past inceptness, even this sorry estimate may be optimistic. It is important for the Subcommittee to realize that Detroit HUD is still taking in nearly 500 homes a month by foreclosure. Thus, this problem will continue for many years to come. This Subcommittee should realize, too, that each home that HUD takes in costs the federal government about $8900. Thus, HUD is assuming additional obligations in Detroit alone of about $4,450,000 a month. Based on past performance, we can expect these homes to be held for an average of 21 months and further blight our city.

We believe strongly that a pre-default counseling program would greatly reduce these losses. HUD itself has shown counseling to be cost-effective, and certainly the minimal cost of having a trained person meet with a family immediately when they fail to make a payment would be more than offset by the avoidance of foreclosure, maintenance, and in some cases, demolition costs.

Mr. Chairman, if one certainty has emerged from the Detroit situation, it is that HUD's cumbersome bureaucratic methods will simply not reduce our inventory. To deal with the mess it has created, HUD must be made to throw away its rule book and explore every conceivable way to avoid foreclosure and to get salvageable houses back on the market immediately.

We request that this Subcommittee undertake an investigation of ways to reduce the massive Detroit inventory. We believe that there are important lessons to be learned from the Detroit experience, as an extreme example of waste in government spending and bureaucratic bungling. In addition, we think it is appropriate that Congress investigate the factors which have caused an agency which was created originally to serve the people's needs to add so greatly to their problems.

We believe that such an investigation should examine, among other things, (1) the implementation of full scale pre- and post-occupancy counseling and pre-default counseling programs, (2) methods for expediting the processing of defaults, (3) new ways to encourage mortagees to avoid foreclosure, and (4) better property management, rehabilitation and sales programs. In addition, faster methods should be used to transfer houses in bulk to city or state housing authorities, where responsibility to the community is greatest.

We wish to emphasize that the incompetent and irresponsibly rigid administration of many of HUD's programs has led to the problems we face today. We urge the Subcommittee to explore ways to use existing programs such as Urban Homesteading and rehabilitation under the 518b program creatively and productively. We believe both these programs represent sound ideas which have been stymied by lack of support from within the Department. Very few of the houses made available for homesteading in Detroit have been worth rehabilitating, and HUD has interpreted 518b provisions so narrowly that only one tenth of the Detroit area applicants were accepted. We urge that HUD, too, be given the mandate of exploring what can be done to cut through the red tape in their use of existing programs and that they be requested to report back to the Subcommittee.

In closing Mr. Chairman, we wish to thank the Subcommittee Members for their courteous attention. May we suggest that this Subcommittee would do well to hold a meeting in Detroit to view first hand the terrible problems created by a government agency.

We thank you.

THE CELLINI LODGE OF THE ORDER SONS OF ITALY, NEW HYDE PARK, N.Y.

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. WOLFF. Mr. Speaker, Lacalamita, Caltabiano, Dantone, Fulgenzi, Sciame, all are names that to the ear say "Italy." But to those of us familiar with the Cellini Lodge of the Order Sons of Italy, there is much more to the story. The members of the lodge are either of Italian birth or descent—the ranks of the lodge being filled with such names. But the spirits there contained are filled with a sincere commitment to the United States of America as well as to a distant heritage.

The Order Sons of Italy, of which the Cellini Lodge is a part, has as its purposes:

To enroll in its membership all persons of Italian birth or descent, regardless of religious faith or political affiliation, who believe in the fundamental concept that society is based upon the principles of law and order, and who adhere to a form of government founded upon the belief in God and based upon the Constitution of the United States of America which government rests upon the proposition that all men are created equal and functions through the consent of the governed.

To promote civic education among its members.

To uphold the concept of Americanism.

To encourage the dissemination of Italian culture in the United States.

To keep alive the spiritual attachment to the tradition of the land of our ancestors.

To promote the moral, intellectual, and material well-being of our membership.

To defend and uphold the prestige of the people of Italian birth or descent in America.

To encourage the active participation of our membership in the political, social and civic life of our communities.

To organize and establish benevolent and social welfare institutions for the protection and assistance of our members, their dependents, and the needy in general, with such material aid as we are able to give.

To initiate and organize movements for patriotic and humanitarian purposes,

and to join in meritorious movements for such purposes which have been initiated by other organizations or groups.

I was quite pleased to be able to speak at the annual installation of officers on March 28, 1976. The men and women who will be leading the activities for the coming year are:

LADIES' AUXILIARY OFFICERS

President, Betty Caltabiano.
Vice President, Mary Falanga.
Past President, Jean Abbadessa.
Parliamentarian, Josephine Cappello.
Recording Secretary, Josephine Astore.
Financial Secretary, Theresa Drago.
Treasurer, Doris Nuzzo.
Corresponding Secty., Lydia Milo.
Trustees, Marie Darrin, Jane DePalma, Laura Aprigliano.

COUNCIL OF OFFICERS

Venerable, Joseph Lacalamita.
1st Ass't Venerable, Joseph M. Dantone.
2nd Ass't Venerable, Joseph Fulgenzi.
Ex-Venerable, Joseph Sciame.
Orator, Donato Masucci.
Recording Secretary, Michael Dantone, Sr.
Financial Secretary, Salvatore LoPinto.
Treasurer, Vincent Aprigliano.
Masters of Ceremony, Dominic Cimino, Nicholas Lacalamita.
Sentinel, Pasquale Proscia.
Chaplain, John Bertolini.
Trustees, 1976–79: Samuel Gentile, Anthony Palladino, Nicholas Terracuso.
1975–78: Frank G. Briganti, Rocco Drago, Gene Morrone, Rudolph W. Palermo, Sr.
1975–77: George Cappello, Frank D'Oria, Joseph Lopinto, Philip Mattera.
Grand Deputy, Michael Pascucci.

The Cellini Lodge "* * * presents the true picture of the Italo-American suburbanite who has accomplished a reputable and respected position in the community." The Lodge not only serves as a celebration of a great foreign heritage, but represents a united effort for the involvement and success of Italo-Americans in their country. I offer my congratulations and best wishes for a coming year of good works to the Cellini Lodge of New Hyde Park, N.Y., and its new officers.

BURTON AMENDMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. MAZZOLI. Mr. Speaker, the recent defeat of the Burton amendment has left me with feelings of dismay and confusion.

I am dismayed that, in these times of public mistrust in our political system, the House was unable to muster enough support to enact legislation which would have helped restore much-needed trust and confidence in the legislative branch.

Partial public financing of congressional campaigns could have been the proof-positive of our commitment to insuring more responsive representation for all citizens, not just those belonging to politically potent special interest groups.

I am also confused by the defeat of this modest proposal.

How can it be that a measure, identical to one carrying the names of 225 Members of the House, garner only 121 votes in favor of its adoption.

The measure attempts to control the influence of special interests on the decisions made by the Congress. Does the vote on the Burton amendment reflect the combined muscle of these selfsame special interest groups?

In any event, the defeat of the public financing amendment was a bad outcome. We had a chance to do a little "Spring Cleaning" in the House. Instead, we only rearranged the dust.

REASONS FOR OPPOSING THE DEFENSE BUDGET

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. MOSHER. Mr. Speaker, I wish to insert at this point in the RECORD a statement of my views and feelings regarding the Defense Department budget now before us. I am opposed to this huge spending request and I wish to explain my position to my colleagues and the public.

Mr. Speaker, if a man were to build a castle on a barren, rocky plain and fill it full of guns and ammunition, could we assume that he had fully provided for his future health and happiness? Would he not soon become hungry or thirsty or cold? Guns and bullets make poor nourishment and cannot be safely burned.

In the last 25 years the United States has spent approximately $1.5 trillion on defense. This is roughly equal to the entire fixed non-residential business capital, equipment and structures, farm and manufacturing, of the United States.

I agree that much of our defense spending has been in response to security concerns that were warranted.

I suggest, that the amount of national wealth that is diverted each year from productive to this nonproductive investment is so great that each military spending program should be more exhaustively scrutinized.

In my 16 years in Congress I have tried to vote according to my belief that America must not act like the imaginary castle builder mentioned at the beginning of these remarks. Rather I have started from the assumption that national security, like personal security, can be endangered by excessive preoccupation with external threats.

If we live as hostages of fear, we will be as insecure as if we paid no attention to assuring our national security.

This year's defense budget represents a 25-percent real growth in spending over fiscal year 1976 appropriations and such a leap in spending warrants extremely close scrutiny. But before I attempt that, I would like to say a word about what my colleagues Mr. CARR, Mr. DOWNEY, and Ms. SCHROEDER have called the "Pentagon public relations campaign to convince the American people and the Congress of our military inferiority."

To return to our man in his castle for a moment, Mr. Speaker, we can see it is folly for him to preoccupy himself with weapons at the expense of food, just because his neighbor is silly enough to do that. Anyone who has tried to buy a simple bath towel or water glass in the Soviet Union will understand the relevance of this metaphor.

Thus, it does not appear to me wise to try blindly to always spend as much money as the Soviets spend.

And there are indications that the "dollar model" suffers from grave limitations as a measure of relative Soviet and American strengths anyway. It undervalues American technological accomplishments, many of which the Soviet could not afford at any price. Further, it overvalues the Soviet tendency to dress up people in military uniforms and call them soldiers despite their real functions; functions that are carried out by civilians in the United States.

So, I argue, it is foolish to rush to approve costly weapons programs simply on the theory that we must spend as many dollars as the Soviet Union.

And I believe that when we do look at specific programs in the fiscal year 1977 budget, several appear to be of doubtful value at this time.

There are the Air Force and Navy leviathans, the B–1 bomber and the Trident submarine respectively, set to replace the still functional and in some ways superior, B–52 series and Poseidon.

There also is the long-leadtime money for the CVNX, the nuclear aircraft carrier that will cost $2 billion dollars to build. We already have 11 large carriers and the Russians have none comparable.

There is the money for cruise missile development, a weapon that will make any arms control agreement difficult because it is virtually impossible to verify. Moreover, we have no firm guarantee that we will ever be able to get this system to meet the grand performance claims of its promoters.

There are the ships that were not even recommended by the Navy, four DD–963 Spruance-class destroyers, and the doubling of long-leadtime funds for the CSGN nuclear cruiser.

There is AWACS, airborne warning and control systems, an extremely expensive airborne command post that would be very vulnerable to precision-guided antiaircraft weapons.

There is our troop commitment to the morally questionable South Korean regime.

The proposed fiscal year 1977 budget includes approximately $5½ billion for these items I have listed which seem so very questionable. Five and a half billion dollars that could either be invested in improving American productive capability and creating jobs, in improving the quality of life through better environmental management, education and health care, or might simply be used for tax relief or revenue sharing.

For example, in my district, the 13th Congressional District of Ohio, we could well use the $12.5 million that would be our share of the savings. For $2 million, Huron Harbor could be renovated and

that would mean $10 to $12 million injected yearly into the economy of our local area. We could also build a much-needed beach erosion project in Lakeview Park in Lorain for $1.2 million that would have both recreational and environmental benefits. Those two projects come to mind because I testified this week before the Appropriations Committee in their support.

Or, more money might be spent on the Cuyahoga Valley National Park for acquisition and maintenance.

And after those projects were funded, there still would be enough money left over to cut personal property taxes throughout our congressional district by almost half. I am sure that every district has the same sort of needs.

If we spend this $5½ billion nationally, we might do such things as double the Federal investment in water pollution control projects, or build 200,000 $25,000 houses, creating much-needed housing and jobs.

With $5 billion we could increase our commitments to medical research by more than a factor of five.

But probably the most popular way to spend $5½ billion would be to decrease all Federal personal income taxes by about 4 percent, noting the benefits that such a cut could bring to the economy in terms of consumption and investment capital for civilian productivity.

But whether the money that might be saved from military spending would be spent on economic infrastructure, on improving the quality of life in America, or is to be returned to the taxpayer, more benefit would accrue to our society than if it were spent on unnecessary weapons systems. National wealth should be reinvested to improve life in America, if we are to be "No. 1" in any more meaningful way than in the capability to destroy.

Like the foolish man in his castle, we may soon find out that military strength that is not backed by social and economic capability provides only illusory security.

NEWSLETTER ON CATASTROPHIC HEALTH INSURANCE BILL

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. PATTEN. Mr. Speaker, my latest newsletter to constituents covers a bill I have cosponsored: the Catastrophic Health Insurance and Medical Assistance Reform Act. A few other subjects are included, such as progress on the Route 18 bridge and extension over the Raritan River; a little information about Bicentennial events, and action taken by the Labor-HEW Subcommittee on Appropriations on helping to provide additional funds for the basic educational opportunity grants—BEOG—program.

The entire contents of that newsletter are hereby included:

CONGRESSMAN EDWARD J. PATTEN'S WASHINGTON REPORT

PROTECTION NEEDED FROM CATASTROPHIC ILLNESS

The serious problem of catastrophic illness affects thousands of American families every year. Almost 500,000 Americans die of cancer and stroke annually—the second and third-ranking killers in this country. Only heart disease claims more lives—over 1 million. Before many of these persons die, however, they not only endure intense pain and disability, but often suffer great financial hardship. In fact, many are devastated by prolonged illness, their savings of a lifetime wiped out.

Since the enactment of national health insurance may be several years away because of different plans advocated by the Ford Administration and Congress, it is important to have legislation passed and signed this year which would at least protect every American family from catastrophic illness.

CATASTROPHIC HEALTH INSURANCE BILL COSPONSORED

Because of my strong interest in finding a fair, reasonable and practical solution to this problem, I recently helped sponsor the Catastrophic Health Insurance and Medical Assistance Reform Act. (See box on right). This proposal is now being considered by the House Ways and Means Committee, with field hearings scheduled during May. Hopefully, a clean bill will be written soon after hearings are finished.

The legislation would provide catastrophic health insurance coverage for all Americans through these two plans:

(1) A Federally-administered public plan for the unemployed, welfare recipients, the aged, and persons who do not choose private insurance coverage.

(2) As an option, a private catastrophic insurance plan for employers and the self-employed. They would be required to provide and pay the entire cost of catastrophic protection for their employees.

Benefits would be similar to those now available under Medicare, but would be subject to payment by the beneficiary of the first 60 days of hospital care and the first $2,000 in medical expenses. The program would be financed by a 1% tax on the payroll of employers, with 50% of the amount allowed as a tax credit. Employers who prefer a private plan would have their premiums deducted from their 1% payroll tax liability. In addition, they would be eligible for a 50% tax credit on both the total amount of premiums paid for catastrophic coverage and any remaining Federal payroll tax liability after the premiums have been deducted.

MEDICAL ASSISTANCE PLAN FOR LOW-INCOME PERSONS

Also included in the bill is the Medical Assistance Plan, which would be available for low-income persons eligible for Medicaid benefits during the period January to July, 1977. All persons and families with an annual income at or below the following levels would be covered by this important section of the legislation: $2,400 for an individual; $3,600 for a two-person family; $4,200 for a three-person family; $4,800 for a four-person family; and $400 more for each additional family member. Families who have incomes above these levels would become eligible if they spent enough on medical care to cut their income to the eligibility levels. As an example, if a family of four with an income of $5,000 spent $200 for medical care, it would be eligible, since it would meet the $4,800 level.

These are the major provisions of the bill I have helped sponsor—H.R. 12229. They represent a real hope for millions of Americans who live in fear of being bankrupted by the terrible impact of serious and prolonged illness. It would be a great achievement if this legislation were enacted this year. The long-term solution is enactment of national health insurance, which I have also co-sponsored, but we must provide the American people with the protection they need against financial destruction, now.

ENCOURAGING PROGRESS ON RT. 18 BRIDGE PROJECT

For many years it has been the hope of most community leaders and thousands of commuters in the New Brunswick area to have a Rt. 18 bridge and extension constructed. Unfortunately, because of one delay after another since 1968, that important structure had been an elusive goal.

Recently, however, encouraging progress has been made and prospects for obtaining a bridge permit by May 1st are bright. According to Coast Guard officials, the final draft of its environmental impact statement is scheduled to be forwarded during March to the U.S. Council on Environmental Quality (CEQ) for a 30-day review. Following the mandatory review by CEQ, the statement will be reviewed and hopefully approved by the Coast Guard, with the final step being the issuance of a permit to build the bridge and extension.

The 2.1 mile structure, which will begin in the vicinity of New Street, New Brunswick, and end at Sutphen Road, Piscataway, is an imperative need for several reasons. First of all, it is the key to the rejuvenation of New Brunswick, which is in urgent need of help. Second, traffic congestion in the area is growing and the bridge and extension would alleviate it. The third reason is an economic one; construction would provide employment to hundreds of construction workers who are suffering from a 30% unemployment rate.

Besides conferring with N.J. Cabinet-members on the importance of expediting their paperwork on the project, I have also met with Admiral Owen W. Siler, Coast Guard Commandant (see photo below), and U.S. Transportation Secretary William T. Coleman, Jr. As I pointed out to them, any further delays would not only continue the problems cited above, but would also increase construction costs due to inflationary pressures.

GREAT AMERICAN MUSICAL

Every evening at 8 p.m., except Mondays, between June 14 and Sept. 6, Wash. D.C. will treat its Bicentennial visitors to a colorful program of family entertainment. It's free of charge.

This Great American Musical will be presented on the Wash. Monument grounds. It's a program of American music, culminated with a dramatic display of fireworks. No tickets are necessary.

ACADEMY APPLICATIONS ACCEPTED

Young men or women who are interested in applying for admission to any of the service academies should write to the following address, now:

Rep. Edward J. Patten, 2332 Rayburn House Off. Bldg., Washington, D.C. 20515.

High school students should apply during the Spring semester of their junior year and I will forward them the necessary forms.

BICENTENNIAL INFORMATION

Wash. D.C. will be one of the major focal points of the Bicentennial celebration. I hope that the following information will help in making your plans to visit the nation's capital.

Accommodations, transportation and Bicentennial events: C 202, 737-6666.

Dial-a-Park: 426-6975.

Weather Service: 936-1111.

Bicentennial Info. Center: 15th & E Sts., N.W.: 737-5162.

GOOD NEWS FOR COLLEGE STUDENTS

The Labor-HEW Subcommittee on Appropriations on which I serve has approved funds needed to continue a key student-aid program which was endangered because of a lack of money. The program that had exhausted its funds—Basic Educational Opportunity Grants (BEOG)—needed additional Federal funds to prevent over 1.2 million college students from low and middle income families from losing an estimated $160 a year of the total they had been receiving. Under the BEOG program, eligible students can receive as much as $1,400 annually.

The BEOG program has made it possible for thousands of students to attend Rutgers, and the Middlesex County College in Edison. Rutgers' records show that since the 1973–74 school year, and including the anticipated number of those for the 1975–76 years, 5,446 students at Rutgers will have received $4.1 million in BEOG awards. This means that at Rutgers University alone, students from *economically-disadvantaged families will have* received an average of $760 a year.

I'm pleased to report that the BEOG program will be continued at full funding by subcommittee and committee approval of an advance to HEW from the 1976 appropriation—conditional on the receipt of a supplemental budget request to cover the total requirements now estimated for the 1976–77 year. HEW is going to make a supplemental request for the Spring funding bill to cover the reprogramming, so students will not lose any benefits. I urged and supported the additional funds so that the BEOG program would continue at full strength.

THE SILENT PARTNER OF HOWARD HUGHES—PART XVII

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. HARRINGTON. Mr. Speaker, I am inserting today the 17th and final installment of the Philadelphia Inquirer's exposé regarding Howard Hughes' privileged relationship with sectors of the U.S. Government. This series appeared in the Inquirer from December 14 to 20, 1975, and has been inserted into the RECORD beginning with the March 2 issue, page 5036. As I stated in that first installment, the Inquirer and its reporters—Donald L. Barlett and James B. Steele—deserve the highest praise for their persistance and thoroughness.

Howard Hughes—whom we must now, apparently, refer to in the past tense—was one of the most intriguing figures in modern American history. His genius for making money, his passion for secrecy, and his contempt for law combined to make him one of the most powerful men in the world. It is my hope that the true extent of the people and property he commanded can now be identified, as a first step toward bringing his empire under the rule of law.

The article follows:

SECRECY ETHIC THROUGH ORGANIZATION

The difficulty in serving Hughes with court papers in the Air West case was only the beginning of Hughes' delaying tactics and outright refusal to cooperate with court orders. Hughes refused to answer all questions submitted to him in writing and refused to appear for court-ordered depositions.

"The refusal of Mr. Hughes to permit discovery could hardly be more absolute," said one attorney who had sought unsuccessfully to obtain testimony from Hughes. "He has defied the order of this court, he has refused to testify, he has failed to produce documents and he has refused to answer any interrogatories whatsoever."

Attorneys for Hughes opponents in the San Francisco actions have sought to obtain testimony from Hughes because of the central role they believe the billionaire played in the Air West acquisition.

Hughes, either through his wholly owned holding company, Summa Corp., or personally, owns 100 percent of the stock in Hughes Air Corp., the company that operates Hughes Airwest, the name Hughes subsequently gave to Air West after he purchased the airline.

"Of all the actors who played roles in the series of events referred to," wrote a lawyer representing a company suing Hughes, "Mr. Hughes is the only common denominator."

For refusing to appear for depositions in the various Air West cases, Hughes violated court orders, and damages could be levied against him by the federal courts.

But Hughes has been slapped with a judgment in the past for ignoring court orders, and still emerged victorious when the case was finally settled.

In the TWA case, which dragged through the federal courts for more than a decade, Hughes also refused to obey court orders and Hughes Tool was ultimately assessed $145 million in damages.

But in 1973, the Supreme Court reversed the lower court on grounds other than Hughes' refusal to obey court orders, and the damages against Hughes were dismissed.

The problem, for those pursuing the Hughes organization on legal grounds, isn't just one of winning in court; it is one of just getting to court.

In 1973, Lou Damiani, a private investigator, tried to serve a subpoena on Frank William Gay, executive vice president of Hughes' Summa Corp. and a Hughes aide since 1947. It was an experience Damiani would not soon forget.

The subpoena called for Gay to give a deposition in a lawsuit growing out of a Hughes organization attempt to acquire a Los Angeles helicopter service.

Damiani said he first tried to serve the subpoena on Gay at 7000 Romaine St. in Hollywood, long the communications and nerve center for much of Hughes empire.

When he failed to get past the receptionist there, Damiani said he managed to obtain Gay's business telephone number. When he called the number, and still was unable to speak to Gay, he asked for Gay's business address.

"You don't know the address?," asked the man on the other end, and quickly hung up.

Damiani then learned, by tracing the telephone listing, that Gay's office was located at 17000 South Ventura Boulevard in Encino, a suburban community in the San Fernando Valley north of Los Angeles.

On March 5, Damiani drove to that location and found a three-story non-descript suburban style office building with a group of small businesses and stores housed on the ground floor.

NO LISTING

The investigator found no listing for Gay or Summa or Hughes on the building directory, but learned from neighbors that Gay maintained an office on the third floor.

The building hardly looked like a place where the chief operating officer of a corporation with an estimated net worth of several hundred million dollars would maintain his office, but Damiani decided to see if Gay could indeed be found on the third floor.

As he was riding to the third floor in the elevator, Damiani obtained a description of Gay and the location of his office from another passenger.

When he stepped off the elevator on the third floor, three men told him Gay was not there, and led him to the office of Vincent Kelley, who was identified as the Hughes security chief.

After telling Kelley that he had come to serve a subpoena on Gay, Damiani said Kelley "smiled and stated that Mr. Gay was not in the building at that time.

"I then asked Mr. Kelley why everybody appeared to be so secretive in the building and what they could be hiding there."

In a few minutes, Damiani left Kelley's office, ostensibly to leave the building Instead, he walked down the hall toward Gay's office.

When he arrived at the office he had been told was Gay's, an office that was barred by a door containing a push-button combination lock, Damiani knocked. Damiani explained what happened:

"After I knocked on the door, a woman opened the door and I observed three men *inside the office. One of the men matched* the description I had of Mr. Gay and, holding the deposition subpoena in my hand, I stated, 'Mr. Gay, I have papers here for you.'"

"Immediately upon stating this, the three men ran through and closed a door at the back of the office. Simultaneously, the woman began closing the door in front of me. I did not resist, but dropped the copy of the deposition subpoena which had been given to me by Mr. Rogers on the floor of the office. The woman then completely closed the door in front of me and I left the building."

FACT OF LIFE

The secrecy cloaking the Hughes empire by no means relates solely to legal proceedings—indeed secrecy is simply a daily fact of life in an organization in which secrecy is an end unto itself.

Even though Gay has testified that his business address is 17000 Ventura Blvd., Encino, a certified letter mailed to him at that address by The Inquirer last August was returned to the newspaper stamped "Refused."

The newspaper sought to afford Gay an opportunity to comment on the Hughes organization's relationship with the federal government and other findings arising from The Inquirer's eight-month investigation of Hughes.

Similar letters were sent to Howard Hughes himself or other high-ranking Hughes officials. One letter mailed to Nadine Henley, Hughes long-time secretary at 7000 Romaine St., Hollywood, was returned labeled "Refused."

A letter mailed to Hughes in care of the 25th floor of Houston's Exxon Building, which Hughes has listed again and again in court records and official government documents as his permanent United States address, was returned "Unclaimed."

A letter mailed to Hughes in care of Chester Davis, a New York attorney who has long represented Hughes interests on many matters, was returned "Refused."

And so it goes.

So complete is the secrecy surrounding the empire that only a bare handful of employes in the Hughes organization ever see Hughes.

Robert Maheu once testified that he caught only two fleeting glimpses of Hughes in the 15 years he worked for him in various high-level posts. The rest of the time they communicated in writing or by telephone.

Kenneth Wright, administrator of the Howard Hughes Medical Institute in Miami since shortly after it was created in 1953, told Congress in 1973 that he had never seen Hughes.

All this has helped feel untold speculation over the years—over whether Hughes, whose 70th birthday will be this Christmas Eve, is still alive.

The same question also had been asked

by a high official of a federal agency that probably has access to more personal data on Hughes than any other.

It was in 1972 that Johnnie M. Walters, then IRS commissioner, jotted down some notes on a legal pad in preparation for an upcoming conference with the Secretary of the Treasury.

Walter's entries covered many tax subjects, including a major IRS investigation of the Hughes empire that was then under way.

Walters made brief notations to advise the secretary on both the slope and length of the Hughes investigation.

As Walters thought over the broad outlines of the IRS audit, he jotted down one last question about Hughes to raise in the meeting:

"Is he alive?"

WE NEED STRIP MINING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BIAGGI. Mr. Speaker, as the Congress once again considers the merit of strip mining legislation I would like to bring to the attention of my colleagues an article which appeared in the Sunday New York Daily News.

In the article, the author discusses the inherent hazards in traditional coal mining methods. All of us recall the profound tragedy which occurred several weeks ago in Kentucky when 26 coal miners lost their lives in two explosions in an underground mine. As the article points out there is no way to remove the dangers in underground mining but there is an alternative—strip mining.

The history of strip mining legislation in Congress is well known to many of my colleagues. The efforts of environmentalists to require explicit restoration of strip mined land has served to inhibit passage of this needed legislation. In the last vote on the subject in 1975, while the House and Senate passed the bill the President vetoed the legislation citing what turned out to be an erroneous claim that the bill would result in a severe loss of jobs among American workers.

New strip mining legislation has been offered. It is a good and reasonable bill but has run into serious problems clearing the House Rules Committee. The need for strip mining is apparent from an energy and economic standpoint. Coal remains one of our most abundant sources of domestic energy yet large quantities of it remain untouched. Strip mining would allow us to bring out the coal and bring down the cost of energy to the American consumer. Added to this is the fact that strip mining may ultimately save American lives. I hope the members of the Rules Committee will withdraw their objections to this legislation and allow the full House to consider the bill.

Mr. Speaker, I now insert the article "Strip Mining Saves a Lot of Dollars and Human Lives," written by I. D. Robbins—former president of the City Club of New York:

STRIP MINING SAVES A LOT—DOLLARS AND HUMAN LIVES

(By I. D. Robbins)

Twenty-six men died three weeks ago in two eastern Kentucky mine explosions. The cause, as usual, was methane gas. There were pictures of families waiting at the mine gates for news of survivors. Then we saw the miners' wives being led away by relatives. From Poland, Germany, India, wherever men go down into the mines, we get the same story, the same picture.

When I think of what happens underground, the effort by environmentalists to stop strip mining makes me wonder whether our values have been turned around.

I have been in a coal mine just once, but it was an experience I cannot get out of my mind. The mine was near Richwood, W. Va., in mountaineer country from rock ground to rock ceiling.

THIRTY SEVEN OF US ON OUR BACKS

There were 37 of us in hard hats. With our lights and knee pads, we got into little empty coal cars on narrow-gauge tracks. Lie back and keep my hand inside, I was told. The tunnel was about four feet rock ground to rock ceiling.

A thunderstorm was blowing up, and I could not help noticing that the bright copper wiring was connected with alligator clips. This was the wiring that carried the power for the mine cars, conveyor belts and fans that brought air into the mine, but such makeshift arrangements did not seem to concern the miners.

SUDDENLY, NO LIGHTS

We had a bumpy ride 5000 feet into the mine; then we each rolled onto a conveyor belt and traveled another quarter-mile on our backs. We were ready for mining. The mining machinery was just starting up when, suddenly, everything was quiet—the power was off. The pumped air stopped blowing; the men sat down. After a little while the foreman suggested that we turn off our lights. The superintendent told me not to worry, that it was probably a short circuit that would be fixed right away. And this mine, he said, had not much water and very little gas in it.

OUT ON HANDS AND KNEES

For a while I heard noting but the hackhack of miners coughing. When, after a couple of hours, the power did not come on, the men began to laugh a little too much, talk a little too loud. After another couple of hours, the foreman said we might as well get out of there. At first, I crawled on hands and knees; the last mile, where the tunnel was higher, I tried to duck walk.

When we got to daylight, we were told lightning had struck the mine wiring and that it just could not be fixed in time for that shift.

That's all there was to it. A wasted day, no coal mined.

Later, in eastern Ohio, I saw coal being mined by the strip method, but in the open, in the bright sunshine. What a contrast. The earth above had been removed, exposing the coal. No burying in the ground, no families waiting at the gate. I saw beautiful pastures on land reclaimed after surface mining.

Something is terribly cockeyed here. Billions of tons of coal that the country needs for energy lies just beneath the surface, ready to be scooped up. Why should coal be mined by moles?

LIGHTNING WILL STRIKE

Men who have spent their lives in underground mining have told me that there is no way to eliminate the risk. It is inherently dangerous, and lightning will always strike. Inspection and safety measures are important, but both men and management often regard them as harassment, not help.

The way to prevent the weeping at the gates is to encourage strip mining, not stop it. The savings in money from the open-pit method should be more than enough to pay for restoring the scars on the land. And the nation won't have those widows on its conscience.

GIVE RICHARD NIXON A BREAK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. DERWINSKI. Mr. Speaker, here in Washington as the picture, "All the President's Men," premieres and the controversy unfolds over the new book, "The Final Days," we have a classic case of the artificiality and isolation of the Nation's Capital from the rest of the country.

Verbal assaults on Richard Nixon come more often than campaign pledges to balance the budget, eliminate inflation and unemployment and restore Camelot. Miss Judy Topinka, reporter and columnist for the Life newspapers in suburban Cook County, reflects in a column on April 4, 1976, on what I consider to be grassroots, American thinking and a sense of fairness that is lacking in Washington in discussing former President Nixon:

GIVE RICHARD NIXON A BREAK

(By Judy Topinka)

There comes a time to stop kicking a dead horse.

Richard Nixon is out of office and secluded in his San Clemente estate. He is not a beast, nor a dragon about to lay ruin to the United States. His day in the sun is over, and he is no threat to national security. Hence, isn't it about time to let the man alone to repent in whatever peace he can find?

The latest book by the Woodward-Berstein duo on the last days of Richard Nixon in the White House has got to be one of the lower forms of journalism to come to public attention today, especially since the two Washington Post reporters did so admirably in calling the nation's attention to the Watergate situation with his high level chicanery against the public good. It can be assumed, however, that there is gold in dem dere hills with a fat buck in the offing as one grovels in the dirt of private lives.

What difference can it make to anyone whether or not Richard Nixon and his wife had a glowing sexual relationship during the past 14 years? Is it any wonder that the man drank during his final days under fire, bearing up under a strain that would send an average person to contemplate razor blades for starters? Does it really matter that the man cursed here and there in what has come to be nitpickingly called the "expletives deleted?"

Although a public official gives up his/her right to the kind of privacy the average citizen has come to expect, there is still a point of decency beyond which others should not venture. Yes, even a President or a former President, ought to have some time out from under the gun.

Recent charges that Jack Kennedy was prone to find comfort in arms not necessarily those of his wife; that Thomas Jefferson was wont to visit his slave quarters a little more frequently than business would dictate for the same purposes, are bad enough. Although Kennedy and Jefferson are already swallowed up by history where these charges cannot

hurt them directly (though I imagine Jackie does a cringe between thousand-dollar shopping sprees), Nixon lives on in continued pain.

Although one need not be a fan of the former President, one can agree that he was not the total pariah that the American public has now made him. There is no more need of a national whipping boy. We have greater, current problems facing us. Whether or not Richard Nixon uses Charmin or not is of no concern to me. Do you really want to know?

Richard Nixon has suffered as much as any person can be or should be expected to for the problems he created. The total destruction of a human being from the inside out via the kind of trash currently brought forward in this questionable book is an emotional drawing and quartering that would have delighted the Elizabethans who practiced the real version of drawing and quartering.

Granted, there are still some money-making ventures that can be derived out of Nixonia, and some joker somewhere will find them. But, God, how rotten does it have to get? How much hearsay has to be quoted as gospel? How much blood will be demanded?

The anicent Aztecs used to sacrifice their victims by cutting out their hearts. In our own way, we have done the same for Richard Nixon.

THE SALE OF SIX C-130 TRANSPORT PLANES TO EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues testimony I delivered April 6 before the House International Relations Committee Subcommittee on Political and Military Affairs concerning the proposed sale of six C-130 air transport planes to Egypt.

I conclude in the statement that it is in our national interest to proceed with this sale but that under present circumstances the United States should not sell either offensive or defensive arms to Egypt and that any further development of the United States-Egyptian military relationship must await more substantial progress toward a peace settlement in the Middle East.

The statement follows:

TESTIMONY OF LEE H. HAMILTON

Mr. Chairman, I welcome the opportunity to appear before this Subcommittee on H. Con. Res. 595, a resolution disapproving the sale of six C-130 aircraft to Egypt.

I appear in opposition to the resolution and in support of the proposed sale.

In summary, my position is:

That it is in our national interest to proceed with this sale of transport equipment;

That under the present circumstances the United States should not sell either offensive or defensive arms to Egypt;

That any further development of the United States-Egyptian military relationship must await more substantial progress towards a peace settlement in the Middle East;

And, finally, that our attention in the Middle East over the next several months should turn away from arms sales and towards promoting further peace talks since such peace negotiations are ultimately the only viable means of helping Egypt with its political, economic and strategic dilemmas.

WHY SALE SHOULD BE SUPPORTED

I support this sale because:

First, it demonstrates symbolic and psychological support for Egypt and its President, Anwar Sadat, at a time when Egypt's isolation in the Middle East is increasing because peace talks are at a standstill and because many Arabs feel that Sadat's 1975 interim agreement with Israel took Egypt out of future conflicts and reduced Arab leverage.

Sadat remains a key element in United States peace initiatives and if those efforts are to continue, we must continue to give Egypt support and try to insure continuation of Egypt's moderate policies.

Second, it is in the national interest of the United States in order that tensions in the Middle East be reduced, that the Soviet Union-Egyptian military relationship de-escalate and slow down. Egypt's military options have significantly reduced in recent months with the de-escalation of its military relationship with the Soviet Union.

The recent termination of the Soviet-Egyptian Friendship Treaty must be seen as the third major step Egypt has taken in trying to free itself from the close embrace of the Soviet Union. In 1972, Sadat expelled some 15,000 Soviet military technicians and advisors. In 1973, Sadat orchestrated the 1973 October War through an alliance with moderate Arab states, principally Saudi Arabia.

The cancellation of the Friendship Treaty culminates a four year effort by Egypt to regain its independence. It is certainly not the time for this nation to fill any gap or try to take the Soviet Union's place in Egypt because I do not want such a relationship and neither, I think, do the Egyptians. But we can and should support recent trends in Egyptian foreign policy.

The Soviet-Egyptian military tie may well resume on some scale in the future, but it is in our interest and in Israel's interest that it not reach the scale of activity and arms supply of past years.

This sale gives some paramilitary support for President Sadat and Egypt without, and I repeat without, affecting one iota the military balance in the Middle East.

Third, I believe that the time has not come for us to sell Egypt arms, either defensive or offensive, but the time has come where it is in our national interest that we insure that Egypt has viable Western outlets for legitimate needs to maintain its military establishment.

Therefore, we must be involved with Egypt's procurement needs, either directly or indirectly by encouraging our allies to sell Egypt equipment, if the Soviet-Egyptian military tie is not to resume tomorrow.

While we should not now sell arms, we can sell support, communications and logistical equipment without jeopardizing Israel's security.

Fourth, the sale of the C-130s, contrary to some statements heard here recently, does not, in itself, start a military relationship, and it certainly does not represent any significant departure in policy. It is consistent with other sales of jeeps and multi-ton trucks we have made since the October 1973 War, although this sale is significantly larger in financial terms. This sale before us, then, is not the nose of the camel under the tent: the camel is already there.

Any military relationship begins the day we start to try to sell arms, be they offensive or defensive. I would trust that such sales are not being contemplated at this time: our relationship with Egypt needs a greater test of time before any sale of arms should be proposed for Egypt.

Fifth, this sale is not only in our interest but in Israel's interest despite what has been said here and in Israel about the sale. I regret Prime Minister Rabin's recent remarks that he will do everything in his power to stop the C-130 sale. I believe his stand on the matter is shortsighted.

Israel has an important stake in what is happening in Sadat's Egypt. Egypt's de-escalating relationship with the Soviet Union, its more moderate policies and its willingness to go against the prevailing mood in the Arab world and get several steps out ahead of some of its Arab friends in peace talks are all policies that are directly helpful to Israel.

Israel's supporters in Congress, and I consider myself among them, cannot be doing Israel any favor by stopping this sale and foreclosing one of Egypt's few options in the present situation.

Finally, to stop this sale will be to send a very wrong kind of a message to the Middle East. It appears that more and more Arabs, including some Syrians, support the Egyptian view or goal of peace with Israel provided Israel withdraws to something near the 1967 lines and provided the Palestinian issue can be solved. While there may be some general Arab agreement on goals, tactics differ. Syrians and other Arabs are telling the Egyptians that it is wrong to break military and political ties with the Soviet Union despite annoyance with Moscow because the United States will not be able to deliver either peace or arms for the foreseeable future and therefore, for the present, the Arabs must look elsewhere for maintaining political and military options.

A vote for the resolution of disapproval is a vote for Syria's tactics and a vote against the policies of Egypt, Jordan and Saudi Arabia on these geographical issues in the Middle East.

SITUATION IN MIDDLE EAST FLUID

Mr. Chairman, I support this sale for the above reasons although I consider it unfortunate that we must address this sale in the absence of any reviewed peace initiatives in the Middle East.

Recent developments in the Middle East suggest that American-sponsored peace efforts have reached a standstill. Whether this present lull represents a total or temporary stop, a detour of some duration or a repudiation of American step-by-step diplomacy is not yet clear.

What is amply clear, however, is that for the next several months the situation in the Middle East will remain fluid, the United States' options for regaining peace momentum will be few and the chances for periodic heightened tensions increased.

In the present situation, Syria will not talk with Israel unless the PLO is accepted and the Palestinian issue is addressed. Israel, for its part, will not talk with either the PLO or Syria on the Palestinian issue. Jordan apparently will not talk with Israel unless the Israelis will accept the principle of eventual withdrawal from the entire occupied West Bank, a principle the Israeli government is unwilling to contemplate at this juncture.

While it is true that for the next several months a renewal of the UNDOF mandate on the Golan Heights, due to expire in May, and the tense political stalemate in Lebanon, require urgent attention and diplomatic efforts with Syria, it is also true that the American-Egyptian relationship is entering a critical phase.

This debate on the C-130 sale comes before us at a time when Middle East peace efforts under United States auspices are at an impasse, when Egypt is more vulnerable to political attacks from other Arab states than at any time in the last two decades, and when Egypt's own political and military options have been severely reduced by its deteriorating relations with the Soviet Union, Syria and Libya.

Congress should not seek to avoid a debate on this relationship because U.S.-Egyptian relations represent a key element in our peace strategy and a new and significant departure from recent policy.

UNITED STATES-EGYPTIAN RELATIONS

The proposed sale of six C–130 transport planes and the military relationship with Egypt that this and previous sales represent provide the backdrop for a debate on American-Egyptian relations.

I would have hoped that our growing relationship with Egypt could have developed more fully and strongly in political and economic fields and could have survived a further test of time before we embarked on any military equipment supply relationship.

In the absence of concrete peace efforts involving Syria and on the Palestinian issue, Egypt is inherently less stable. Egypt is isolated in the Arab world; its politicians have to have some self-doubts about the wisdom of Sadat's diplomacy. He has taken Egypt out on a limb with the United States, leaving fellow Arabs behind and lacking any great leverage to help bring them along.

There is also the urgent need to divert resources away from the military and toward economic development. Cairo is the most important city in the Middle East but it needs massive investment—investments that cannot wait several years. The Suez Canal also needs reconstruction following years of war and destruction. Millions of Egyptians live in urban and rural poverty and they badly need better health and education facilities and population control measures. Our economic aid can address these concerns.

More generally, the Egyptian economy, which has suffered years of bad planning, needs immediate attention and better planning than a government worried about, and deeply involved in, the Arab-Israeli conflict can provide.

These apprehensions relate both to the style and substance of our dealings with Egypt. They are a direct result of the way our relationship with Egypt has developed and of the serious growing pains that relationship now faces.

But these doubts cannot, and should not, obstruct our vision of where Egypt is in the real world and where we would like it to be.

Among the most important political developments of the last several years in the Middle East has been the deterioration of Egyptian-Soviet relations. That development, and the more moderate position of the Egyptian government on many of the issues of concern to us in the Middle East, have contributed substantially to a lessening of tensions throughout the region. Together these developments are also very much in Israel's interest. But they need to be supplemented by a renewed momentum for peace if our relationship with Egypt is to survive.

AFTER C–130S, WHAT ELSE?

What is most troubling about the proposed sale of C–130s to Egypt is not the sale itself, nor even some type of military relationship wih Egypt in the future, but rather that our options with Egypt, and in the Middle East generally, appear to have been reduced so far in recent months that such equipment sales represent the best we can do at the moment to give substance to our relationship with Egypt.

I would give more enthusiastic support to this C–130 sale, if peace talks in the region were on the upbeat and if our government and the other parties to the conflict were addressing the larger problems of war and peace in the Middle East. Further Syrian-Israeli talks and specific attention to the West Bank and Palestinian issues cannot continue to be avoided by gambits like C–130s.

After the C–130s, the question is: what next? Is this sale to buy time, give Egypt symbolic and psychological support for a few months? Will further sales be necessary while we grope for the next move in peace talks?

When India recently, apparently on orders from Moscow, refused to sell Egypt spare parts for some of its Soviet equipment after months of small, if any, Soviet bloc arms deliveries to Egypt, it became clear that Western states would have to supply equipment if Egypt was to be able to maintain its military establishment.

MILITARY RELATIONSHIP WITH EGYPT

Even though we may wish to avoid a military relationship and prefer Britain and France to provide Egypt with military essentials in the next several years if other Egyptian supply lines are cut, we may be involved indirectly with Egypt's procurement of military supplies in the coming months.

I would prefer that we not let our own military relationship with Egypt develop beyond logistic, support, transport and communication equipment for the time being unless there are concrete, new developments in peace negotiations. Our military relationship should be frozen at this level of quantity and sophistication. For the immediate future, Egypt will have to rely on Western Europe for new arms procurements.

In short, the caveats for a military relationship with Egypt involving arms must be further success in peace talks and the initiation of efforts to reach broad agreements with other arms suppliers to reduce the flow of arms into the entire Middle East and Persian Gulf regions.

Doubts exist on a military supply relationship simply because this development stands almost alone today. The sale cannnot, in and of itself, be a catalyst for successful pursuit of diplomatic options to promote peace talks. One arms sale can only lead to other sales and that is a narrow and risky path to follow.

LOOKING AHEAD

There may be considerable wisdom in the desirability of divorcing the complex issues of war and peace in the Middle East from political debate in the United States this election year. But that does not mean that there are not important diplomatic alternatives that can be pursued in the next several months in Geneva, in bilateral Syrian-Israeli talks and in dealings with all states in the Middle East.

I fear that we might follow too easily the course of overloading the American-Egyptian circuit with military considerations rather than address the next issues that threaten the Mideast quiet.

Syria remains on center stage. We'd best turn our attention in that direction.

One real answer to Egypt's current frustrations and to improving American-Egyptian relations for the future lies on the peace path that goes initially through Damascus, Syria. In both the short and long-term, there is no shortcut to that path to solving Egypt's dilemmas.

The C–130s, in a way, should be seen in the same light as that spanking new presidential helicopter that President Nixon gave to President Sadat in June 1974. Such equipment may give United States-Egyptian relations some symbolic and psychological support, but they are non-starters for the real issue in the Middle East. What the United States-Egyptian relationship needs most now is less such symbols and more substance and movement in peace talk.

As President Sadat has so often remarked, Egypt has turned to the United States, in part, because the Soviet Union could supply military equipment but could not help achieve peace. I do not want to see the United States fall into the same predicament. Egypt wants a lasting peace more than it wants arms, and the latter can never be considered a substitute for the former. If we provide military equipment and no developments occur on the peace front, we are right back where the Soviet Union was with Egypt a few years ago—neither the United States nor Egypt desires that prospect or that type of relationship.

The Committee on International Relations, for its part, should table this resolution of disapproval on the proposed sale of six C–130s to Egypt. We have assurances from the Secretary of State that there will not be other sales this year. I would hope that we can now redirect our efforts in the coming months and give new attention to peace talks. Whether such talks focus on the Golan Heights or on the difficult West Bank issues, they remain the only viable option for the United States in the Middle East.

Without such peace efforts, the sale of C–130s will serve no useful purpose. With renewed momentum in the Middle East diplomatic arena, the C–130 purchase loses most of its significance. In any case, it is in our national interest and promotes American interests in the Middle East to proceed with this sale of transport equipment.

TIMBER FROM PRIVATELY OWNED RURAL LAND

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BROWN of California. Mr. Speaker, many conflicting, statistical statements are being made regarding the possible effects of the "National Forest Timber Management Reform Act of 1976" on the amount of timber harvested in our national forests. During the House Agriculture Subcommittee hearings figures from 10 to 50 percent were tossed out with little concrete evidence to support them.

This is naturally a matter of great concern to us all. Wood products are a necessary part of our lives—for use in housing, paper, pulp and fuel products. But we must remember that our national forests make up only 18 percent of the commercial timber in the United States. Privately owned, nonindustrial forested lands comprise more than 50 percent, and the quality and quantity of timber on these acres is growing steadily with the application of the Forestry Incentives Act and with the growing knowledge of good silvicultural practices.

Through proper incentives the development of timber for harvesting on private lands can be stimulated. As William Sizemore stated in appendix I of the Report of the President's Advisory Panel on Timber and the Environment, entitled "Improving the Productivity of Nonindustrial Private Woodlands:"

On a per acre basis, the growth of nonindustrial private lands exceeds considerably that on public lands, especially that on national forests. It does not, however, attain the levels that occur on industrial lands on a per-acre basis. This means that there is a real opportunity for a substantial increase in timber supplies through manipulating growing stock and improving practices on nonindustrial private lands.

In addition, he gave the statistic that:

Between 1952 and 1970 softwood sawtimber volumes on other private ownerships in the South increased by 50–60 fbm.

This is decidedly an area of timber sources which should be checked into. Increased timber production in our rural areas on a sustained yield basis could give a real boost to the economy of our

rural areas which providing much needed wood fibre for our increasing demands.

I would like to insert into the RECORD an excellent article summarizing the degree and quality of timber on privately owned, nonindustrial lands, especially in the South, and explaining the silvicultural practices which could best stimulate increased private timber harvesting. In addition, I would like to include a table of statistics from the U.S. Forest Service's publication "Outlook for Timber in the United States." This table gives the total acreage areas for the national forest, private, and forest industry commercial timber; and a statement by the coalition to Save our National Forests on the issue of timber production on our private lands.

I urge my distinguished colleagues to scan these figures and read the article if possible. This issue will be mentioned many times in the next few months:

SELECTIVE TIMBER MANAGEMENT—ITS ROLE

(By R. R. Reynolds, Crossett, Ark.)

At a time when stress is being placed on meeting Third Forest objectives in the shortest period of time, much attention has been given to the even-aged system of managing loblolly and shortleaf pine stands. This usually involves clearcutting the existing stand and converting to plantation management. For certain landowners, especially those who also manufacture pulp and paper, this system has merits. Large areas of forest can be harvested, cleared and planted at one time. Large, very expensive, machinery can be used. Genetically improved seedlings can be planted. And the total production of pulpwood on a per-acre-per-year basis may be greater than under other possible systems of forest management.

The fact remains, however, that many industrial timberland owners, who also own sawmills or plywood plants, and most nonindustrial owners in the South do not want to clearcut their forests and start all over. Thankfully, they have an alternative—and a good one—called selective timber management. Under this system some trees are harvested regularly on a selective basis, with the total volume cut at any one time roughly equal to the growth that has taken place since the last harvest. The system favors continuous stand improvement. Within the limits of the allowable cut, the poorest and biologically most mature stems are marked for removal. The immature stems with the greatest potential for improvement in size and quality are left to grow.

Selection management allows for a gradual buildup of understocked stands, accelerated increment on the best trees and a gradual increase in the proportion of each acre that is growing high value sawlog and plywood log timber. The owner realizes a regular income from his timber and, year in and year out, this is the management system that continues to appeal to most small owners.

HIGH EARNING POTENTIAL

A high percentage of the approximately 80 million acres of southern forests that contain loblolly or shortleaf pine, or the two together, have either a good or an operable stand of immature trees already on the land. Stocking often is from 8 to 20 or more cords per acre, with a goodly percentage of the trees in small sawlog sizes. Perhaps 80 percent of these forests are of natural regeneration and a large majority contains trees of several ages and diameters.

To clearcut these biologically and financially immature stands would usually result in a very large loss in board-foot growth and returns over the next 25 to 30 years. Pulpwood stumpage prices paid to the private timberland owner have run from $3 to $6 per standard cord over much of the South for the last 20 years and all indications are that the price will not increase much in the foreseeable future.

Even if the private timberland owner can get his present stands cut and cleared of unwanted hardwoods at or near the same cost as the large industrial owner, the average owner cannot expect to break even on the newly planted stands during his lifetime. He should remember, too, that the newly established planted stands are much more vulnerable to destructive agencies such as fire, insects and disease than his present stands.

EXCELLENT MARKET FOR PINE LOGS

On the other hand, the market is excellent for pine logs of good size and reasonably good quality over most of the South. Prices are generally from $100 to $130 per thousand board feet (Doyle scale). Furthermore, all indications are that even better markets and better prices will be available in the future. A cubic foot of wood in a tree that is large enough to be sold as plywood or sawmill log stumpage is generally worth from 5 to 15 times what the same volume would bring as pulpwood. To make money on his forestry venture the private timberland owner should, therefore, attempt to grow as many of his trees as possible to good log size before cutting.

In much of the South a loblolly pine growing on a good site that is 10 inches in diameter at 1½ feet from the ground is worth about 90 cents if sold as pulpwood stumpage on today's market. If it has good form and vigor and is given another 10 years to grow, it should become a 13-inch worth from $6 to $8 as a sawlog or plywood log tree. A 13-inch tree growing another 10 years becomes about 16 inches in diameter and has increased about $1 in value for each year that it is allowed to remain in the stand.

Consequently, the timberland owner with a reasonably good stocking of timber that is already from 4 to 10 inches or more in diameter will generally obtain much better returns—and during his lifetime—if he adopts the selection system of management and allows most of his good trees to grow into the more valuable sizes than to clearcut and start over.

Full stocking in the selection forest is from 60 to 80 square feet of basal area. This is equivalent to about 6,000 board feet (Doyle scale) plus about nine cords of material in the smaller sizes. This is usually at least one-third less than in the fully stocked even-age forest. Thus, the competition for growing space is not nearly as intense as in the even-aged. And it is not unusual to find reproduction, seedlings and saplings growing directly under the high crowns of the larger trees, as well as in the small openings. Many of these are half grown replacements for the dominant trees when the larger trees are cut. They are there waiting for growing space and it is not necessary to start with new seedlings in the opening made by the cutting of the bigger tree.

It is generally true that a good quality shortleaf or loblolly pine 10 to 20 inches in diameter that has room to grow, and that has a growth potential of three inches in diameter in 10 years, is earning more per square foot of ground occupied than any number of younger trees that could be established in the same spot. Consequently, where a reasonable number of such trees are present in a person's woodland, greater returns can be had by allowing them to reach sawlog or plywood log size than to cut them and start over with seed and seedlings.

If the present stands have a reasonably good stocking of pine and the low quality unwanted hardwood stems are controlled, they can be given light harvest cuttings on a selection basis every three to five years. And in 20 to 25 years the volume cut can be equal to, or considerably greater than the original volume. The original investment can also be paid off even while the growing stock is being increased. Thus, one does not have to worry about the big and expensive job of getting reproduction, nor about the build-up of compound interest costs.

WHAT CAN BE DONE

The so-called "Poor Farm Forty" on the Crossett Experimental Forest in southern Arkansas is one example among many of what can be done with an understocked, immature, many-diametered natural stand of previously unmanaged shortleaf-lobby pine-hardwoods.

It was placed under management in 1937. When the study started the area contained more hardwood stems than pine and a large proportion of these were unmerchantable. Hardwood control measures and chemicals in use today were unknown in those early years. Over the first 10 years, most of the hardwoods about two inches and larger were treated, either by cutting or girdling. The stocking of pine in 1937 was 976 cubic feet per acre, or about 11.5 cords. An average of 17 trees per acre were 12 inches d. b. h. or larger, and 68 were 4 to 11 inches in size. Not a very husky stocking.

A volume of forest products equal to about one-half of the estimated annual growth of the pine was removed and sold in 1939. This was after the second growing season following study establishment. Over the first 10 years of the study 23,254 board feet (Doyle scale) of pine logs 1,249 board feet of hardwood logs, 136 cords of pine pulpwood and pine posts, and 158 cords of hardwood chemicalwood, firewood and pulpwood were cut. On today's market these products would have a stumpage value of $3,519. With 34 acres in the tract, this would be equal to $103 per acre.

Annual harvests were made in 29 out of the first 30 years. During this time products with a stumpage value of $27,444 at present-day prices were cut and sold. This is equal to $807 per acre or $26.88 per acre per year. In addition the volume of the sawlog portion of the stand increased 2,982 board feet per acres. And there was an appreciable increase in the cordwood volume of trees below 12 inches.

Over the first 30 years the number of pine trees in the 4- to 11-inch diameter classes increased from 68 to 145 per acre, so that there was no difficulty in securing all the reproduction needed. Number of trees in the 12-inch and larger classes increased from 17 to 32 per acre over the same period. In both cases this was in spite of the fact that a good many trees were cut over the 30 years.

During the 20 years (1946–1967), growth of pine in log size trees, and including trees growing into log size, averaged 381 board feet per acre per year. And between 1956 and 1968 the growth averaged over 500 board feet (Doyle scale) per year.

To get such growth and returns a timberland owner must be willing to maintain a quite good growing stock of trees of merchantable size. Trees of relatively large size are needed to produce good board-foot growth. But when one can show returns of from $30 to $50 (gross) per acre per year, a good investment in growing stock will pay off in a big way.

Of course, trees growing in stands that are too thick, in forests that have a very light stocking, in woodlands that are unmanaged, and on areas that have poor soils and sites will not grow as well as those on the Crossett "Poor Forty." At the same time better soils and sites than on the "Poor Forty" can be found throughout the range of shortleaf and loblolly pine and on such forested areas

growth and returns should be better than at Crossett.

Thus, timberland owners who have goods, or reasonably good, stands of loblolly or shortleaf-loblolly pine have an opportunity to realize excellent returns during their lifetimes if they manage their stands on a selection system.

In addition, the well-managed selection forest will be pleasing to the city dweller and the environmentalist who wish to have, and demand, "wilderness areas." The selection forest can also be a big producer of deer and other game. It's the way to have our cake and eat it, too.

Area of Commercial Timberland by Ownership and Stand Size, 1970

North—Forest ownerships

Mature Sawtimber (Thousand Acres):	
National Forests	3,087
Farm and Miscellaneous Private	44,071
Forest Industry	7,431

South—Forest ownerships

Mature Sawtimber (Thousand Acres):	
National Forests	5,614
Farm and Miscellaneous Private	49,877
Forest Industry	15,697

Rocky Mountains—Forest ownerships

Mature Sawtimber (Thousand Acres):	
National Forests	21,620
Farm and Miscellaneous Private	7,644
Forest Industry	1,812

Pacific coast—Forest ownerships

Mature Sawtimber (Thousand Acres):	
National Forests	24,052
Farm and Miscellaneous Private	8,917
Forest Industry	7,546

COALITION TO SAVE OUR NATIONAL FORESTS

More dollars from farm woodlots?

Farmers' Stake in the National Forest Timber Reform Legislation

As a result of federal court decisions in lawsuits challenging timber sales in the National Forests in West Virginia and Alaska, America's farmers have the prospect of receiving substantial increases in income from sales of timber from their woodlots in the years ahead. Unfortunately, the increased income will not be realized if timber companies are successful in their current attempts to void the effect of the decisions. The Agriculture Committees in Congress must act quickly to guarantee this important source of income to farmers.

Some 18 percent of the Nation's harvestable trees are in a 43-state system of publicly-owned National Forests. Since World War II timber companies, with the assistance of the U.S. Forest Service, have been logging timber in bigger and bigger chunks of the National Forests. Harvests have increased from 2.4 billion board feet of timber in 1945 to 10.8 billion board feet in 1975.

A significant number of abuses to the National Forests have accompanied this dramatic surge in timber harvests. They include wasteful clearcutting that has devastated millions of acres of National Forests, cutting in excess of regrowth rates, and overcutting in individual National Forests.

In the past six months, victories in lawsuits challenging these short-sighted harvest practices have threatened to limit timber companies' easy access to National Forest trees. These rulings have interpreted the Organic Act of 1897 which established the National Forest System as prohibiting the sale of immature trees and requiring the marking and designation of trees to be cut. In effect, they find the practice of clearcutting in various National Forest areas illegal.

If the supply of timber from National Forests is limited to any extent, where will the timber companies go to fill their demand for wood fibre? To a significant extent they could be encouraged to turn increasingly to the 50 percent of the nation's growing timber located on farms and other small woodlots throughout our nation.

In the past the Agriculture Committees have worked hard for federal assistance to farmers in the Forestry Incentives Program to improve woodlots and boost future wood fibre production with cost-share grants for planting and thinning of trees. However, the existence of this program does not mean that the timber companies will come to buy the trees when they are ready for harvest or that the timber companies will pay the owner a fair price for his trees. Legislation is needed to maintain the gains that these lawsuits have achieved and to insure that the benefits of reform are passed on to owners of smaller private timber holdings.

The National Forest Timber Management Reform Act of 1976 has been introduced by Senator Jennings Randolph of West Virginia (S. 2926) and Representative George Brown of California (H.R. 11894). This legislation, drafted with the assistance of professional foresters and representatives of such organizations as the Sierra Club and the Izaak Walton League, would require that the size of clearcuts be generally limited to 25 acres; that benefits to wildlife and remedial harvesting be the criteria for clearcuts in National Forest hardwood stands in the East; that strips of trees be left along forest streams in harvest areas to protect them from erosion and thermal pollution; that trees be individually marked and designated prior to harvesting; that massive clearcutting of immature trees be prohibited; that transfer of tree species be prohibited following timber harvest; that harvest activities not be concentrated in any single National Forest area; and that the stands be managed so that a mixture of ages is maintained.

A key element of the Randolph-Brown legislation is reform of timber sale pricing. Currently prices for trees that industry is willing to pay dictate the dollar levels at which National Forest timber is sold. In computing these price levels the Forest Service does not attempt to recover the taxpayer dollars spent on managing the growing timber or preparing it for sale. When timber sale prices are high they may be recovered by coincidence. When prices are low, it means not only that this taxpayer investment is lost but that National Forest timber sale prices are tugging down sale prices of timber from private lands whose owners must of course try to recover their investments in the good as well as the bad times.

Considering the benefits that would flow to the farm woodlot owner when the Randolph-Brown bill passes, it is surprising that the bill has encountered a lack of support from the Agriculture Committees. Some Members of Congress would prefer to deal with the situation with interim legislation which would negate the lawsuit victories for a year or two while permanent legislation is prepared. Supporters of reform point out that such "interim" legislation can easily become "final" itself with the upshot being no reform. Another alternative being pressed in Congress is "goal-oriented" legislation which would set very general guidelines for managing and selling the timber from the National Forests, but leave the specifics of management including pricing formulas up to the Forest Service. Supporters of the Randolph-Brown bill are especially critical of this approach because wise management and sales policies would continually be prey to industry pressures in the years ahead as wood fibre demands increase.

Farm woodlot owners across the nation have a stake in the specifics of National Forest timber management, sales and harvesting. Currently proposed "interim" and "goal-oriented" bills do not provide the benefits to farmers and other small woodlot owners that the Randolph-Brown bill does. Wise National Forest timber reform legislation will benefit rural economies and produce the timber America needs in the years ahead.

MARCH 3, 1976.

THE BIAS OF TV "SCIENCE" REPORTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. McDONALD of Georgia. Mr. Speaker, on page E412 of the February 3, 1976, RECORD I inserted a TV Guide column by Edith Efron on the biased "science" reporting of the television networks. Miss Efron charged:

Scientifically untrained reporters are scaring the population to death with the idea that incalculable numbers of products are on the market which are inducing cancer and other dread diseases.

Ignored by such reports, Miss Efron continues, is the fact that—

There is no substance on earth which, when ingested in varying amounts by human beings, will not cause problems for some of them, ranging from temporary discomfort to death.

In other words there is always a certain risk involved in life and in medicine, which must always be weighed by the benefit. Yet the entire benefit/risk concept is ignored by the television "science" reporters.

Now Miss Efron has written a further column—TV Guide, March 20, 1976—based on reader response to the first one. One group of respondents, consisting of nonscientists, were very critical and showed virtually no understanding of her argument. The other group, consisting of scientists and businessmen, not only understood her reasoning but were amazed that anyone in the media understood the benefit/risk concept.

Now why, Miss Efron asks, is the benefit/risk concept so ungraspable by the consumerist-environmentalist-conservationist camp? She considers the answer to be obvious:

To perceive industrial risks, however grave, in the full context of industrial benefits, requires one to admit that the science-technology-big business alliance in America is overwhelmingly life-giving, not life-destroying. But people antagonistic to American industry would rather go blind than to acknowledge this truth. Their largely unsubstantiated screams of "Cancer! Cancer!", impugning virtually every product in American industry, do not constitute an authentic scientific position; they symbolize a political position.

Miss Efron concludes:

Taken together, both sets of letters confirm my charges that network coverage . . . is scientifically illiterate and biased. To this I now add the charge: it is politically biased as well.

Since, unfortunately, some of the same scientific illiteracy and political bias is apparent in the legislative treatment of these issues, I thought the article would be of interest to my colleagues:

READER MAIL BRINGS CLASHING VIEWS ON SCIENCE COLUMN

(By Edith Efron)

My mail always reflects the clashing views on any controversies I write about. Sometimes it documents my criticisms of network coverage in a dramatic way. A case in point is the reader response to my column "Biased 'Science' Reporting Scares Viewers" [Jan. 10, 1976].

To recapitulate what I originally said: I wrote a short, abstract essay on the benefit/risk concept in life and in medicine. In it, I pointed out that every substance in existence, including the greatest lifesavers (i.e., mother's milk, sunshine, penicillin, sulfa drugs), had a toxic or lethal effect on some proportion of the human race; that life itself was a calculated risk; that the practice of medicine consisted of taking calculated risks; and that there was something dangerously stupid about the current hysterical press uproar over "toxic substances." I said that scientifically illiterate reporters were feeding the hysteria by airing a jumble of real, speculative and false charges, and by failing to cover the scientific controversies fairly (e.g., CBS's "The American Way of Cancer"). I concluded that if the public was to be reliably informed, and I explicitly deemed this necessary, the networks should assign only scientifically trained reporters who could understand the results of the continuous monitoring of drugs and chemicals, a monitoring I explicitly deemed necessary. OK?

Now, the mail. Pros and cons were roughly equal. Those who disliked my column, Group A, were: members of consumer groups, environmental groups, conservation groups and assorted people who shared their views. Those who praised my column, Group B, were: industrialists, food technologists, industrial scientists, doctors and academic scientists, as well as a few laymen who shared their views. Group B was massively more scientifically sophisticated than Group A.

What did Group A have to say? A Barbara Niles of Consumer Action Now charged me with a fear-ridden resistance to "hard facts," and a desire to withhold those "hard facts" from the public. Fred Jerome, public information director of the Scientists' Institute for Public Information, publishers of Environment—the Barry Commoner organization—wrote: "Congratulations. TV GUIDE has come up with a brilliant way to eliminate the problem of cancer caused by environmental pollutants: stop broadcasting news about it!" Sen. John Tunney, a sponsor of the proposed Toxic Substances Control Act, declared my column "extremely unfortunate" because, he said, the public was insufficiently aware of cancer risks. And others damned science, technology and industry as mass murderers, and charged me with relishing that murder.

My critics had these things in common: all, save for one biologist—were nonscientists. Almost all vehemently defended the CBS documentary. None showed the slightest understanding of my reasoning, or showed any concern over journalistic suppression of serious scientific dissent. Above all, every critic in Group A perceived me as denying the existence of dangers, denying the need for investigating them, or as seeking to suppress information—all three blantant distortions, since I had clearly stated the opposite.

What, by contrast, did Group B have to say? To a man, the readers from the science-technology-and-industry camps not only understood my column, but appeared to be in a state of joyous shock over it. Letters from presidents and vice presidents of industries (food, drugs, chemicals, aerosols, etc.) thanked me, often emotionally, for presenting the benefit/risk issue Richard Hall, vice president in charge of research and development at McCormick & Company in Maryland—a man with three chemistry degrees from Harvard and a member of the New York Academy of Sciences—generously described my column as a "gem." A representative of the Institute of Food Technologists, Howard Mattson of Chicago, declared: "I'm speechless! I didn't know there was anyone left in the media who understood the risk/benefit concept in any area of mortal life, especially not in food and drugs." And ditto from medical editors, doctors, surgeons, epidemiologists One California physician, Bruce Olsen, wrote: "It was the first sign that I have seen that someone in the media had any understanding of medical practice."

Ditto, again, from academic scientists. One, Gilbert A. Leveille, chairman of the Department of Food Science and Human Nutrition at Michigan State University, said: "I found your article to be reasoned discussion of the concept of benefit/risk. . . . Those of us concerned with the health of this Nation . . . have found it difficult to deal with the kinds of programs to which you refer where a few isolated facts and considerable conjecture are used to promote a campaign of sensationalism without any real concern for the truth." Another, J. Gordon Edwards, professor of entomology in the Department of Biological Sciences at San Jose State University, a DDT defender, said: "I have written dozens of letters pointing out errors and imploring producers and editors to at least read the statements of scientists who disagree with the views they have presented to the public. Usually I never even get a reply, and frequently, the replies that I did receive were very hostile."

How does all this add up? Thus: the scientifically sophisticated group of readers in Group B understood my theme, my reasoning and my conclusions perfectly. They did not distort my position; rather, they confirmed it. Group A, however, revealed mass and uniform distortion of perception: all had gone stone blind on the contextual issue of benefit/risk. What is so "ungraspable" about the benefit/risk concepts to consumerists, environmentalists and conservationists? The answer is obvious. To perceive industrial risks, however grave, in the full context of industrial benefits, requires one to admit that the science-technology-big-business alliance in America is overwhelmingly life-giving, not life-destroying. But people antagonistic to American industry would rather go blind than to acknowledge this truth. Their largely unsubstantiated screams of "Cancer! Cancer!", impugning virtually every product in American industry, do not constitute an authentic scientific position; they symbolize a political position. It is no tribute to CBS or to Dan Rather that his documentary constitutes this group's ideal.

Taken together, *both* sets of letters confirm my charges that network coverage—for CBS, while more aggressive, is not unique—is scientifically illiterate and biased. To this, I now add the charge: it is politically biased as well.

DONNA A. BRUBECK

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BYRON. Mr. Speaker, recently I learned that Mrs. Donna A. Brubeck of Williamsport, Md., was one of two women to graduate from the Maryland State Police Academy at Pikesville.

Mrs. Brubeck was one of the 60 new troopers who received their badges and diplomas in the 84th graduating class. She entered the academy last October to begin the 1,366-hour training program.

I want to take this opportunity to express my congratulations to Mrs. Brubeck for her achievement and to wish her success in her career with the Maryland State Police.

CIVILIAN MANPOWER CEILING AMENDMENT

HON. PHILIP H. HAYES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. HAYES of Indiana. Mr. Speaker, Public Law 93-365, section 502, says:

It is the sense of Congress that the Department of Defense shall use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense.

Whether one believes the defense budget should be expanded or contracted, all Members of Congress can certainly agree that good management, elimination of waste and reduced costs are essential. In May of last year, the House acknowledged this piece of commonsense, known to private business for a long time, when they unanimously accepted an amendment I introduced to title V of the DOD authorization bill.

This year that same amendment may be considered in the House again. Because of present manpower ceilings on industrially funded activities,* military installations are required to operate on a fixed number of employees assigned to them by the Secretary of Defense. This number is unrelated to the volume of work contracted and results in a managerially unsounded approach to industrial production and funding for our Nation's defense needs—a situation criticized in several reports to Congress by the General Accounting Office. Civilian manpower ceilings tend to force an industrial facility to reduce its personnel without regard to workload supported by actual funding. Many of my fellow colleagues are feeling the brunt of this practice with cutbacks or closures at appropriate military installations in their districts.

Rather than resulting in "the least costly form of manpower," the albatross of civilian manpower ceilings has fatalistically brought about the most costly form of manpower. Imposing ceiling

* Activities financed by working capital funds known as "Defense Industrial Fund", "Navy Industrial Fund", "Army Industrial Fund", etc., which are established by the Secretary of Defense. Industrial funds perform work through contracts solicited not only from the Defense Department and other governmental agencies but from private sources as well. Although they are owned and operated by the Armed Services, these funds accept and fulfill such contracts in exactly the same way that any private industry does—by being self-sustaining and requiring no continuing appropriation.

limitations to these types of activities restricts their operating flexibility and defeats the cost-efficiency they were designed to foster. I urge fellow Members to support the expected amendment to exclude industrially funded activities of the Department of Defense from the computation of civilian manpower ceiling strengths and thus help restore quality management to industrially funded facilities.

ROGER STEVENS HONORED BY THE RECORDING INDUSTRY ASSOCIATION OF AMERICA

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BROOKS. Mr. Speaker, last evening the Recording Industry Association of America honored Roger Stevens for his many contributions to the cultural enrichment of our Nation.

In accepting the award presented to him, Mr. Stevens unselfishly gave credit to five U.S. Presidents, to the Congress, and to all public-minded citizens who have participated with him in his efforts. It is precisely this unselfish dedication which has enabled him to bring together the necessary talent and resources which have been responsible for the great success of his many cultural achievements. Our Nation and the arts have benefited from his genius and hard work.

Knowing that my colleagues will find it of interest, the text of the citation which accompanied the award to Mr. Stevens follows:

EIGHTH ANNUAL RIAA CULTURAL AWARD

The Eighth Annual RIAA Cultural Award is proudly presented by The Recording Industry Association of America to Roger L. Stevens in recognition and deep appreciation of his accomplishments not only in establishing and operating the John F. Kennedy Center for the Performing Arts but in turning it into one of the most successful operations of its kind in the world today. As chairman of the Center's Board of Trustees since 1961, Mr. Stevens was largely responsible for raising millions of dollars in private contributions from individuals, foundations, corporation and foreign governments which, with matching funds provided by the Federal Government, made possible the complex on the Potomac that today houses a concert hall, an opera house and a theatre.

In attracting the world's outstanding individual artists and performing groups in the fields of theatre, opera, dance and music, the center has made Washington our nation's cultural arts capital. Mr. Stevens also functions as president of Kennedy Center Productions, Inc., an independent, privately-financed organization responsible for funding the musical and theatrical attractions originating at the Center. He has pursued all these activities without any recompense except for the deep personal satisfaction derived from seeing one's dreams come true. He is a noted theatrical producer, former chairman of the National Council on the Arts, president of the National Opera Institute, director of the Metropolitan Opera Association, trustee and co-founder of the American Shakespeare Theatre and Academy, trustee and former chairman of the American Film Institute, member of ANTA, director of the Wolf Trap Farm Park, and member of the Royal Academy of the Arts. He has demonstrated an involvement with, and a concern for, the development and perpetuation of art and culture in its many diverse forms. He has been described as a visionary and it is that vision, and his drive and perseverance to convert it to reality, that we in the recording industry acknowledge and applaud.

HOW SWEET IT IS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. SANTINI. Mr. Speaker, in concert with today's observance of "Food Day," I am introducing the Sugar Disclosure Labeling Act. This bill addresses a fundamental nutrition problem in this country—the excessive content of sugar in many of our food commodities.

The bill in no way attempts to control the amount of sugar contained in food products, but would help provide valuable information to consumers who are concerned with nutrition and a healthy diet.

The Sugar Disclosure Labeling Act requires that packaged food products which contain more than 10 percent sugar clearly label on the package the percentage of sugar content.

In recent years, Americans have become increasingly aware of their health and diets. The effects of sugar consumption have been a subject of experimentation and investigation. The results, however, have been in conflict.

While excessive sugar consumption may lead to tooth decay, there is controversy over whether it contributes substantially, if at all, to obesity, diabetes, and heart disease.

One of my targets in this legislation is the myriad—almost 75 different brands—of presweetened breakfast cereals. The sugar content of some of these morning "treats" is as high as 45 percent. Moreover, nearly all of these cereals contain highly refined flour, which is almost worthless nutritionally, and they often include shortening, which contains saturated fat.

But the presweetened ready-to-eat cereal has become nearly an institution in American eating habits.

But presweetened cereals are not the only culprit in the American love affair with sugar.

I am concerned with the many foods which find their way into our daily diet. Besides the three-meals-a-day plan suggested by nutritionists, we often find ourselves snacking a number of times during the day. Children, especially, seem drawn to snacking on foods which are high in sugar content and lacking in any semblance of nutritional quality.

The time for change has arrived. My efforts are aimed at making the facts available to consumers so that shoppers can decide for themselves, on an informed basis, exactly what foods are an acceptable part of their total diet.

Mr. Speaker, we Americans, unknowingly, are literally eating our lives away on junk foods. Today, Food Day, is the perfect time to begin developing a better awareness of our eating and nutritional habits.

INSURED UNEMPLOYMENT RATES

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. WHALEN. Mr. Speaker, on Tuesday of this week, the gentleman from California (Mr. CORMAN) introduced H.R. 13071 which, if enacted, would provide an additional 13 weeks of unemployment benefits to individuals in States with insured unemployment rates—IUR—below 5 percent. I am pleased to be a cosponsor of this bill.

This much-needed legislation would reinstate the original Federal supplemental benefits program of 1974 by providing a total of 52 weeks combined—regular, extended, and Federal supplemental—benefits when the nationwide IUR is 4.5 percent or higher. The bill would also extend benefits through fiscal year 1977 and would grant an additional 13 weeks benefits, for a total of 65 weeks, to States with an IUR of over 6 percent.

Under the current State trigger mechanism, States such as Ohio with an IUR below 5 percent may pay only 39 weeks maximum unemployment compensation. States with IUR's of over 5 percent may provide a total of 52 weeks benefits. And States with an IUR of over 6 percent are entitled to a total of 65 weeks combined benefits.

On April 3, more than 50,000 unemployed in my State of Ohio saw the termination of their supplemental unemployment compensation. Coutless unemployed throughout the country in States with IUR's lower than 5 percent were similarly affected. Enactment of a nationwide trigger would enable individuals in every State to receive equal assistance during their period of joblessness.

The State trigger mechanism for benefit eligibility has long been a source of problems. As former Secretary of Labor John T. Dunlop testified before the House Subcommittee on Unemployment last April:

The trigger mechanism for making extended benefits payable in a State has proved defective.

Two viable alternatives present themselves upon examination.

First, we may grant additional benefits based on an area trigger, thus attacking the problem of geographic pockets with endemic high jobless rates—usually urban and highly industrialized areas. In Dayton, I have witnessed individuals' benefits cut back because unemployment has been reduced elsewhere in the State. This is unfair and unrealistic. Earlier this session I introduced a bill, H.R. 11171, which now has support from a number of my colleagues, to grant benefit eligibility on the basis of labor market areas. Tomorrow I will reintroduce this measure with additional cosponsors.

Second, we may opt for a nationwide trigger. I commend Mr. CORMAN and his

committee for developing this legislation and for scheduling hearings later this month to investigate the alternatives. I am pleased to lend my support to this bill and to join in the effort to provide responsible and adequate relief during this continuing period of high unemployment.

THE UNFULFILLED PROMISE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. HUNGATE. Mr. Speaker, the following editorial from Carnegie Quarterly may be of interest to my colleagues as we approach the issue of revenue sharing:

THE UNFULFILLED PROMISE—REVENUE SHARING HAS MADE GOVERNMENT LESS ACCOUNTABLE

Congress looks at revenue sharing with serious misgivings. For one thing, the program violates the time-honored maxim of political accountability: that "the government which has the pleasure of spending the public's money should not be spared the pain of raising it."

For another, under the formula for allocating the funds, the neediest localities do not receive the most money. Not least, some in Congress fear that, because local government has a poor record of concern for minorities and the poor, less of the national tax dollar is now going to help the disadvantaged.

The overriding concern is that revenue sharing can become a mechanism for letting the Federal Government do away with social programs, a concern heightened when the Nixon Administration instituted cutbacks, moratoriums and impoundments of other federal funds targeted to the poor shortly after the law was enacted. Since the program does not receive the ongoing congressional scrutiny of programs with annual appropriations, there has been rising demand for debate over the program's merits on the basis of facts—on knowledge of its true impact—before the new bill is enacted.

To provide comprehensive information about the effects of the program in one region, with special emphasis on how the poor and minorities fare under it, the Southern Regional Council in Atlanta in 1973 formed the Southern Governmental Monitoring Project. It was designed to assess revenue sharing in 11 Southern states and their 5223 local governments, which are receiving $499,000,000 and $998,000,000 respectively over the 1972–76 period. Its aim was to investigate the political, not financial, impact of the program.

Over the past two summers, the project, supported by Carnegie Corp, the Rockefeller Foundation and the Mary Reynolds Babcock Foundation, has trained interns and then placed them in some 60 communities throughout the South to pin down exactly how revenue sharing was working. The evidence they piled up presented a sorry picture:

With few exceptions, revenue sharing has helped insulate government from citizens rather than bring it closer to the people. And far from acting as a wedge to end discrimination at the local level, revenue sharing has perpetuated it.

Few governments encourage civic involvement and many are outright hostile to public "interference." One parish manager in Louisiana told an intern that open hearings were useless, no more than a shouting match.

Often, summary hearings on the use of the federal funds were held only after officials had thrashed out their differences privately and could present a united, nearly impenetrable, front on what to do with the money. Often, too, the funds were dumped into a city's regular budget where, is one intern in Raleigh, N.C., reported, "they became as obscure and as difficult to comprehend as the (entire) budget in its 1400-page glory."

At its worst, revenue sharing sometimes has become a device for officials to short-circuit citizen involvement in local government itself. When the voters of Chatham County, Ga., defeated a bond issue for a new courthouse, the county commissioners financed it with federal funds, telling voters who objected that the money was "only" revenue sharing, not their taxes.

The record on civil rights compliance in revenue sharing is equally poor. Statistics that interns and community groups found on the employment of minorities and women in city governments suggest a widepread use of funds in departments that discriminate, a practice prohibited in the revenue-sharing act.

Looking beyond the purely political outcomes of the program, The Center for National Policy Review also assessed the economic aspects of the bill: its distribution formula and its fiscal effects. The center's conclusions do not bolster support for the program as a means of delivering services in an equitable and effective manner.

The revenue-sharing formula gives money to government units on the basis of population, need and tax effort, with one third of the funds going to the state and the rest to local governments. A stipulation restricts a local grant to not less than 20 per cent or more than 145 per cent of the per capita state grant, a device to ensure wide distribution of funds.

However, the center, the Brookings Institution, and GAO all agree that the 20 per cent floor often only props up virtually nonfunctioning small governments. The 145 per cent ceiling, on the other hand, prevents poor cities, with vast numbers of poor people, high costs of providing services and eroding tax bases, from getting money for which they would qualify if there were no ceiling.

The new revenue-sharing bill presented by the Administration makes a token gesture of bringing more equity into allocations by moving the ceiling from 145 per cent to 175 per cent. But the center and other researchers suggest that a 300 per cent ceiling—or no maximum and no minimum payment at all—would be fairer.

RETIREMENT OF REPRESENTATIVE HÉBERT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 31, 1976

Mr. LONG of Louisiana. Mr. Speaker, I would like to express my sincere congratulations to my distinguished colleague, F. EDWARD HÉBERT, on an outstanding career in the House of Representatives. His retirement, which will begin at the conclusion of this session, will be met with admiration for a job well done and sorrow at his leaving.

Dean HÉBERT has devoted more than a third of a century to public service. We in the State of Louisiana, as well as the entire Nation, have been privileged to have him serve us as a powerful force in the public area. He remains a pillar for national defense, and his tireless efforts to maintain peace and "Keep America No. 1" are particularly appropriate this year as we reflect upon our first 200 years as a free and democratic nation.

As a long-standing member of the Armed Services Committee, and eventually as chairman, HÉBERT labored tirelessly to preserve peace through the maintenance of a strong national defense. Though a staunch promoter of strong national defense, EDDIE HÉBERT brought a balanced approach to his work. As a prominent member of the subcommittee which investigated the My Lai massacre, Congressman HÉBERT refused to condone the actions of the U.S. Forces, and reprimanded the Army and State Department for their subsequent efforts to cover up a "tragedy of major proportions." Congressman HÉBERT's honesty and sincerity have prevailed throughout his political career, and it is obviously a great disappointment to see any individual who encompasses these rare characteristics leave the governing body of our Nation.

Congressman HÉBERT has been given such titles as "patriot" and "soldier for peace," both of which I feel are appropriate. Perhaps though, Congressman HÉBERT might be described more accurately as "enduring as in the MacArthur tradition for I sincerely doubt that his efforts toward strengthening national defense will ever be forgotten.

America owes EDDIE HÉBERT a great and lasting debt for his uncounted contributions to the health, welfare, and defense of these United States and all the free world.

ALL-AMERICAN CITY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. MILLER of California. Mr. Speaker, a unique city in my district, San Pablo, has been especially honored by receiving official designation as an all-American city. During this Bicentennial Year, it is doubly gratifying to be one of only 10 cities in the entire United States to be officially noted as outstanding communities.

It is a tribute to the fine citizens of San Pablo, and especially their active involvement in working to beautify their city and to work together to solve its problems.

It would be fitting, I believe, to have the following resolution read into the RECORD. This resolution was authored by Assemblyman John T. Knox, the speaker pro tempore of the California assembly, and passed by that legislative body.

The resolution reads:

Whereas, since its inception under the motto "City of Pride and Progress", on April 20, 1948, the City of San Pablo, through its City Council, has always been concerned with the needs and welfare of the residents of the community; and

Whereas, the City of San Pablo has pioneered in the development of Senior Citizen programs, community redevelopment, and has generally been a leader in innovative programs bringing new and workable solutions to its problems; and

Whereas, approximately 500 cities from all over the United States entered the All American City contest, and of these 115 were chosen to pursue it, after which 30 of the 115 sent delegations to Chicago in 1975, where they appeared before a panel of judges headed by Dr. George Gallup; and

Whereas, in the All American City contest, which was sponsored by the League of California Cities and the League of American Cities, the City of San Pablo was honored as one of the ten All American Cities in the United States; now, therefore, be it

Resolved by Assemblyman John T. Knox, that he commends the City of San Pablo and its hard working citizens upon their exemplary display of citizen action and the progress made in the growth and development of the community, together with his heartiest congratulation upon the City's selection as one of the ten All American Cities in the United States; and be it further

Resolved, that a suitably prepared copy of this Resolution be transferred to the City of San Pablo.

NATIONAL COMMISSION ON DIGESTIVE DISEASES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. CARTER. Mr. Speaker, today I am introducing legislation to establish a National Commission on Digestive Diseases to advance a nationwide attack on digestive diseases. Digestive diseases constitute major health problems in the United States affecting more than 13 million Americans. They are second only to diseases of the heart and circulation in the physician office visits or house calls required. It has been estimated that one-quarter of cancer deaths are due to malignancies in the digestive system. In addition to the physical burden of these conditions, the economic cost of digestive diseases is estimated at $16.5 billion as of 1973, or about $80 for every American. Over 10 percent of the cost of American medical care is for digestive diseases.

As my colleagues know, Congress recognized the importance of digestive diseases with enactment of Public Law 93-305 which added the category of "digestive diseases" to the title of the Institute of Arthritis and Metabolism. Despite this increased visibility, I believe it is necessary to focus more attention on the field of digestive diseases and to develop specific recommendations for future efforts in this important area. To that end, I am sponsoring this legislation to establish a Commission on Digestive Diseases to develop a long-range plan for the use of our national resources for digestive diseases. The plan's report shall be based on a comprehensive study of the present state of knowledge of digestive diseases and current activities in the areas of training, research, and management of these diseases.

I believe that there is great potential for making major advances in digestive diseases within the National Institute of Arthritis, Metabolism, and Digestive Diseases in concert with other Institutes of NIH and other public and private agencies. This legislation provides the appropriate mechanism to begin this important task.

LONG PRESENTS QUESTIONNAIRE RESULTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. LONG of Maryland. Mr. Speaker, I have just compiled 13,038 responses from my constituents to my questionnaire which dealt with six of the most important policy questions—inflation and unemployment, taxes, energy, national health insurance, pollution, and détente—with which Congress and the President have been obliged to deal in this session of Congress.

Perhaps you will be as surprised as I was at the responses I have received from the residents of Maryland's Second Congressional District. The questions and the computerized results follow:

Response

[In percent]

1. Which do you consider the nation's more serious economic problem?

Inflation	69.1
Unemployment	30.9

2. Should Congress seek to solve the energy problem by—(check one)

A. Increasing fuel taxes, to discourage consumption?	5.7
B. Rationing fuel, to curtail consumption?	9.9
C. A crash program to develop new energy sources by setting up well-financed government agencies or by subsidies to private industry?	37.9
D. Breaking up big oil companies and allowing free competitive enterprise to develop more energy supplies, without subsidies or price controls?	46.5

3. Do you favor closing tax loopholes used by the well-to-do in order to reduce taxes on lower and middle income persons?

Yes	89.5
No	6.9
Undecided	3.6

4. Do you want broad national health insurance, even if it should mean higher taxes and more inflation?

Yes	18.7
No	69.7
Undecided	11.6

5. Should the U.S. continue detente, including grain sales, even if the Soviet Union persists in its massive arms build-up and its support of revolution in Angola and elsewhere?

Yes	14.8
No	76.5
Undecided	8.7

6. Do you favor intensified efforts to clean up the environment, even at the risk of higher prices and taxes?

Yes	55.9
No	31.9
Undecided	12.2

Summary of the results:

Three out of four of my constituents do not support détente under current conditions in which we sell wheat and other products to the Soviet Union while that nation continues to arm and support revolutions.

Seven out of 10 said that inflation is a more serious economic problem than unemployment.

Nine out of 10 want to close the tax loopholes enjoyed by a small segment of our society and want to use that income to cut taxes on middle- and low-income families.

Only 2 out of 10 want comprehensive national health insurance if such a program would mean higher taxes or more inflation. Many thoughtful comments were submitted about the need to insure an adequate health delivery system before considering a broad insurance program, and many warnings were received that we should study Britain's experience before entering into such a program.

Over half favor intensified efforts to clean up the environment even at a risk of higher prices and more inflation, while 31.9 percent do not feel we can afford further antipollution measures.

For solving the energy problem, respondents were almost evenly divided in selecting two of four alternatives: 46.5 percent favor breaking up big oil companies and allowing free enterprise to develop more energy supplies without subsidies or price controls; 37.9 percent favor setting up well-financed Government agencies or subsidizing private industry to set up a crash program for developing new energy sources. Fewer than 2 out of 10 want to increase fuel taxes or ration fuel.

NORTHEAST RAILROADS

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. MURPHY of New York. Mr. Speaker, we have a difficult situation in New York State with respect to several sections of railroad in the southern tier area. Under the Railroad Revitalization and Regulatory Reform Act of 1976, and the Railroad Reorganization Act of 1973, as amended, conveyance to Con-Rail of the Erie-Lackawanna line and

other lines has already occurred. Conveyance occurred, as we all know, after the Chessie system failed to purchase the lines of the bankrupt system.

Many of us who worked on this legislation felt that there had to be private systems involvement in our southern tier. It did not make sense to thrust ConRail into a position where new management had to decide which lines would be retained or abandoned when a profitable line could assume ownership and maintain service in the area.

ConRail now holds the rail properties at issue, but there is still an excellent prospect that private corporations, or the State of New York itself, may seek to purchase sections of these railroads. The bill which I introduce today prepares the way for that eventuality.

Specifically, the legislation I propose will make States eligible as "acquiring railroads"; it will make purchase possible without an offer of employment to the employees involved; it will permit employees to remain with ConRail, if they so elect; it will require preservation of the rail assets during the interim period; and it will establish procedures for the foregoing.

This is a vital issue to New Yorkers, and I look forward to its prompt passage.

B. IDEN PAYNE, SHAKESPEAREAN, DIES

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. PICKLE. Mr. Speaker, the world has lost its greatest Shakespearean with the death of B. Iden Payne in Austin, Tex. Payne died April 6 at the age of 94.

At the time of his death, Mr. Payne was professor emeritus of drama at the University of Texas at Austin. On March 26, 1976, the University of Texas board of regents named a new 500-seat theater to be added to the University of Texas drama building in honor of Professor Payne.

When Shakespeareans gather here in the next few weeks for their international meeting, they will certainly feel the absence of this great force in the theater.

I insert an article from the April 7, 1976, edition of the New York Times on Professor Payne:

B. IDEN PAYNE, SHAKESPEAREAN, ACTOR, DIRECTOR, TEACHER, DIES

(By Albin Krebs)

B. Iden Payne, the Shakespearean actor, director and drama instructor who, in a career of 60 years, was a leading figure in the growth of repertory and little theater in Britain and the United States, died yesterday in Austin, Tex. He was 94 years old.

Mr. Payne was once head of the drama department at Carnegie Institute of Technology (now Carnegie-Mellon University) in Pittsburgh and was a professor of drama at the University of Texas in Austin from 1946 until his retirement in 1973.

He directed his last production at Texas in 1968, when he was 87 years old. It was Shakespeare's "The Tempest." Only last week, the regents of the University of Texas voted to name a new university theater, now under construction for Mr. Payne.

As a teacher, Mr. Payne influenced the careers of dozens of person, among them Pat Hingle, Will Geer, Kathryn Grant Crosby, Rip Torn, the director Ward Baker, and Abe Feder, the Broadway lighting expert.

DIRECTED STARS OF THEATER

He directed many of the theater's greats—Ethel and John Barrymore, Otis Skinner, William Gillette, Maud Adams, Ruth Chatterton, Billie Burke. Helen Hayes made her New York debut under Mr. Payne's direction of J. M. Barrie's "Dear Brutus" in 1918. Years later, Miss Hayes said, "On looking back over a lifetime of teachers, I feel sure that B. Iden Payne taught me the most."

Before coming to this country as a young man, Mr. Payne served as general manager of the Abbey Players in Dublin, and was present when Synge's "Playboy of the Western World" had its premiere, followed by rioting, in 1908. (The play, its detractors contended, contained insults to "Irish womanhood.")

Ben Iden Payne was a school dropout, having become stage-struck as a child. He was born Sept. 5, 1881, in Newcastle upon Tyne, England, the son of Alfred Payne, a clergyman, and the former Sarah Glover. In 1899, having abandoned his studies in private schools in Manchester, he made his stage debut in that city's Theater Royal, as a member of R. B. Benson's company.

For the next several years, there was no job that Mr. Payne would shirk, in order to learn his craft. He acted, directed, worked as a stagehand, wrote plays, and painted scenery in dozens of touring and London productions. His tenure with the Abbey Theater ran from 1906 to 1908.

After serving as director of the Manchester Repertory Theater, for which he directed more than 200 productions of plays by Shakespeare, Shaw, John Galsworthy, John Masefield, Arnold Bennett, and others, Mr. Payne toured in repertory with a company he formed with his wife, the actress and writer Mona Limerick, whom he had married in 1906. They were divorced in 1950.

AUTOBIOGRAPHY AT 91

In 1913, Mr. Payne moved to Chicago to direct a series of plays for a new repertory company there. Later he worked with the Goodman Theater in Chicago. He was to spend most of the rest of his life in this country, although he did return to England regularly, from 1935 until 1943, in his capacity as general director of the Shakespeare Memorial Theater at Stratford-upon-Avon.

During the 1920's and 30's, Mr. Payne directed or appeared in dozens of plays, including Shaw's "Widowers Houses." He directed "Twelfth Night" for the opening of the San Diego National Shakespeare Festival in 1949. He had helped with construction there of a reproduction of the Globe Theater.

As a leading drama teacher, Mr. Payne had a career going back to 1914, when he was invited to direct a play at Carnegie Tech. His association with that institution's pioneering now-famous drama school continued, on and off, until 1952.

He also directed plays and held theater workshops at a number of other institutions including the Universities of Washington, Iowa, Missouri, Colorado, Michigan and Alberta.

Although he had written or co-written several plays, Mr. Payne said he was too busy, during his 25 years at the University of Texas, to get around to an autobiography. He began one at 91, and finished it several months ago. Titled "A Road to William Shakespeare," it will be published at the end of the year by the Yale University Press.

Mr. Payne is survived by his second wife, the former Barbara Rankin Chiaroni, whom he married in 1950, and by two daughters from his previous marriage, Lady Donald Wolfit, widow of the British actor, and Paget Payne, who lives in San Francisco.

RADIOACTIVE LEAKS IN RUSSIAN SUBS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. McDONALD of Georgia. Mr. Speaker, ever since the first American nuclear submarine put to sea, various groups in friendly countries have been stirred up by the local Communists to conduct campaigns against the visits of American nuclear submarines on the basis that their presence in these harbors would pollute the waters. These demonstrations have taken place particularly in Denmark, and Japan to name several countries. The United States has always gone to great lengths to insure that its nuclear submarines are safe for all concerned. However, the Russians are not nearly so safety conscious for their own sailors or for the people they visit. Perhaps some demonstrations against the visit of Russian nuclear submarines to Cuba ought to be organized, but I am certain that the DGI—Cuban Secret Police—would make short shrift of any such gathering. The news article from the Sunday Telegraph, London, of April 4, 1976, follows:

RADIOACTIVE LEAKS IN RUSSIAN SUBS

(By Desmond Wettern)

Russia is believed to be facing a serious problem with some of its nuclear-powered submarines as a result of the leakage of radioactively contaminated waste from their reactors.

Cases of radiation sickness have occurred among some submarine crew members. Information on the design problems of Russian nuclear submarines has come to N.A.T.O. from Norweigan sources.

The Norwegian air force patrolling in the far north where Norway has a common frontier with Russia is particularly well-placed to observe Russian warships returning to and leaving their bases in the Kola peninsula from where most Russian nuclear submarines operate.

SEA-WATER TEST

No details on how this information was obtained have been made available. But it would be possible to monitor sea-water radiation levels if it was suspected that a nuclear submarine was discharging radioactive waste.

For some time it has been known by N.A.T.O. that the Russians have had difficulties with some of their earlier nuclear-powered submarines, after the loss of one of the 4,000-ton November class about 150 miles south-west of the Lizard in 1970.

But it was thought the cause of the submarine's loss was due to some human rather than mechanical error on board.

DANGER TO PORTS

If a nuclear submarine is a danger to its crew it could also be a hazard when in port for people in the area.

Whether Cuba, Guinea, Somalia and various Arab States, where Russian warships including nuclear submarines are either based or make frequent visits, are aware of the possible risks to their own people in port areas is doubtful.

There is no known case of leakage of radioactive waste from a British nuclear submarine and only one recorded case with an American submarine. This occurred in a dock at a naval base and the problem was localized by pumping water out of the dock into containers ashore.

GILMAN SEEKS INVESTIGATION OF NEVERSINK-DELAWARE WATER RELEASES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. GILMAN. Mr. Speaker, I rise today to introduce legislation establishing a Select Committee of the House to investigate the management by New York City of water releases from its Catskill reservoirs into the Neversink-Delaware River System.

The Neversink-Delaware River System is one of the last truly wild, scenic river systems in the United States. Its natural beauty and serene tranquillity has been recognized by people living throughout the Northeast. It serves at the center of a major recreation area that is being planned by the Department of the Interior. Sportsmen, canoeists, and sightseers all make use of these rivers during the entire year, and major resort industries have been established in the areas surrounding the rivers.

The river system may soon be killed, however, through the mismanagement of releases from New York City's Catskill Mountain reservoirs into the rivers. As a result of a 1954 decree by the U.S. Supreme Court, New York City was allowed to build three reservoirs in the Catskills: Cannonsville, Pepacton, and Neversink. These reservoirs respectively empty into the West and East Branches of the Delaware River, and the Neversink River, all within New York State. Aqueducts lead from these reservoirs across the Catskills, connecting with the New York City water supply system near the Hudson River. The city is allowed to divert up to 800 million gallons a day for their water supply, a formula also determined by the court.

The New York State Supreme Court ruled in 1973 that the city must also release a specified amount of reservoir water into the natural river system each day. Called "conservation releases," these have not been adequate enough to sustain the life of the rivers, particularly during the hot summer months. During this critical period, the river has such a low flow and heats up to such a degree that most recreational opportunities are lost. Health hazards are also generated by the water releases which are not sufficient enough to accommodate the increased effluents discharged into the river from local towns and resorts.

In addition to low flows, there is also the problem of water sometimes being released too quickly and in too great a quantity, in order to meet the flow requirement at Montague, N.J.—established by the 1954 Court decree. When this occurs, temperatures fluctuate to such a degree that fish life is killed.

The New York State Department of Environmental Conservation has proposed a draft agreement with the city to increase the conservation releases, in order to save the river system. However, the city has stalled on these negotiations and has turned a deaf ear to the pleas of environmentalists from several States and Federal agencies to change their management of the releases.

Because of the city's refusal to negotiate on this issue and based upon its position that the reservoirs are there to serve only the city and its needs, without taking into account the needs of all those who live near the waters and who utilize the river's recreational opportunities, I am calling for the establishment of an investigatory committee of the House.

Mr. Speaker, it is important that we act promptly on this matter. Not only is New York State involved, but so too are the States of Pennsylvania, Delaware, and New Jersey affected by the Delaware River system. Not only is the well-being of New York City and New York State residents at stake, but so too are the hundreds of thousands of yearly visitors to the scenic river area.

The Delaware and Neversink Rivers are being throttled by New York City's arbitrary water management practices. Unless we soon rectify this problem, another river will succumb to neglect—to the neglect of those unconcerned with the ecology of our Nation.

Accordingly, I urge my colleagues to support this important measure which has received the cosponsorship of Mr. McDADE of Pennsylvania, Mr. McHUGH of New York, and Mrs. MEYNER of New Jersey. I include the proposed resolution in full at this point in the RECORD:

H. RES. 1137

Resolution establishing a select committee of the United States House of Representatives to conduct an investigation into the management of water releases by New York City from its reservoirs located in the Catskill Mountains into the Neversink-Delaware River System, and the environmental, health, and other impacts of such releases

Whereas New York City is dependent upon releases of water from its reservoirs located in the Catskill Mountains into the Neversink-Delaware River System for its water supply and for power generation;

Whereas inadequate and disproportionate releases of water by New York City from its reservoirs into the System have adversely affected the aquatic life in and the recreational use of the System and can create health and environmental hazards in the summer months when diffusion of industrial and municipal effluents cannot occur; and

Whereas New York City has not taken appropriate actions to alleviate such adverse effects of its water release management program: Now, therefore, be it

Resolved, That there is established in the House of Representatives a select committee (hereinafter in this resolution referred to as the "committee") to be composed of seven Members of the House of Representatives to be appointed by the Speaker, four from the majority party upon the recommendation of the majority leader of the House and three from the minority party upon the recommendation of the minority leader of the House. The Speaker shall designate one member of the committee as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

SEC. 2. The committee shall conduct a full and complete investigation and study into the management of water releases by New York City from its reservoirs located in the Catskill Mountains into the Neversink-Delaware River System, which investigation and study shall include the impact of such releases—

(1) on the environment,

(2) on aquatic life in the river System,

(3) on recreational use of the System,

(4) on the health of individuals living near the System or using the waters of the System, and

(5) on energy generated from water diverted from the System.

SEC. 3. For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

SEC. 4. The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

SEC. 5. The committee shall expire at the end of the thirty-day period beginning on the date of submission of its final report.

SEC. 6. All expenses of the committee shall be paid from the contingent fund of the House of Representatives on vouchers signed by the chairman of the committee and approved by the Speaker.

VOTING RECORD OF CONGRESSMAN JONATHAN B. BINGHAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. BINGHAM. Mr. Speaker, yesterday, April 7, 1976, I was unavoidably absent during rollcall vote No. 176 on the final passage of H.R. 10686, requiring that population census records be transferred to the National Archives within 50 years after a census, and that such records be made available after 75 years to persons conducting research for genealogical, historical, or medical purposes. Had I been present, I would have voted "yea."

FIRST ANNIVERSARY FOR CAPITOL HILL FORUM

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 8, 1976

Mr. RHODES. Mr. Speaker, on Monday, April 12, 1976, Capitol Hill Forum will celebrate its first anniversary. During the past 12 months, the Forum has been an important source of both news and analysis. Many Members of Congress have contributed thoughtful articles, as have members of the national press corps. The result has been, in my opinion, a well-balanced perspective on the major issues confronting Congress.

I know that most of my colleagues on both sides of the aisle join me in wishing Capitol Hill Forum a very happy first birthday, and many more to come.